IN FIDE ET IN BELLO FORTIS

C236.N2
v.1

E 302.6 .C3 R8 v.1

Rowland, Kate Mason, d.
1916.

The life of Charles Carroll
of Carrollton, 1737-1832

DOMINICAN COLLEGE LIBRARY
SAN RAFAEL, CALIF.

Of this limited letterpress edition, seven hundred and fifty copies have been printed. Type distributed after printing.

G. P. Putnam's Sons

Arms of Carroll, Chiefs of Ely,
King's County, Ireland.

THE LIFE OF
CHARLES CARROLL
OF CARROLLTON
1737–1832

WITH HIS CORRESPONDENCE AND
PUBLIC PAPERS

BY

KATE MASON ROWLAND
Author of "The Life of George Mason"

VOLUME I.

DOMINICAN COLLEGE LIBRARY
SAN RAFAEL, CALIF.

"He had talents and acquirements which enabled him effectually to help the cause he espoused. His knowledge was various, and his eloquence was of a high order. It was like his character, mild and pleasing: like his deportment, correct and faultless. His taste was peculiarly chaste, for he was a scholar of extraordinary accomplishments, and few, if any, of the speakers in the New World came nearer the model of the more refined oratory practised in the parent state."—LORD BROUGHAM.

G. P. PUTNAM'S SONS
NEW YORK & LONDON
The Knickerbocker Press
1898

C236n
V.2

Copyright, 1897
by
KATE MASON ROWLAND

21426

The Knickerbocker Press, New York

ILLUSTRATIONS.

PAGE

ARMS OF CARROLL, CHIEFS OF ELY, KING'S COUNTY, IRELAND . . . . . *Frontispiece*

CHARLES CARROLL OF CARROLLTON . . . 1

From a portrait by Lati after Stuart. Copied by permission of the Maryland Historical Society from its "Centennial Memorial" publication.

CARROLL HOUSE AT ANNAPOLIS 70

From a photograph.

CHARLES CARROLL, ATTORNEY-GENERAL OF MARYLAND—1660–1720 212

From a photograph of his portrait at "Doughoregan Manor."

CARROLL CHART, OR "GENEALOGICAL SYNOPSIS OF THE O'CARROLL PEDIGREE" 401

From *Journal of the Royal Historical and Archæological Association of Ireland.*

CONTENTS.

CHAPTER		PAGE
	INTRODUCTION	vii
	PREFACE	xi
	BIBLIOGRAPHY	xvii
	LIST OF CARROLL PORTRAITS	xix
I.	—ANCESTRY AND EARLY YEARS. 1688–1758	1
II.	—STUDENT LIFE ABROAD. 1758–1764	37
III.	—POLITICS AND MATRIMONY. 1765–1772	70
IV.	—LETTERS OF THE FIRST CITIZEN. 1773–1775	97
V.	—THE MISSION TO CANADA. 1775–1776	140
VI.	—A CONSTITUTION MAKER. 1776–1777	177
VII.	—IN THE CONTINENTAL CONGRESS. 1777–1778	212
APPENDIX A.	—LETTERS OF THE FIRST CITIZEN. 1773	243
	LETTER 1. FEBRUARY 4	245
	LETTER 2. MARCH 11	256
	LETTER 3. MAY 6	283
	LETTER 4. JULY 1	318
APPENDIX B.	—JOURNAL OF CHARLES CARROLL OF CARROLLTON. 1776	363

INTRODUCTION.

IN 1825 the "Life of Richard Henry Lee" was dedicated by its author, Richard Henry Lee of Leesburg, Virginia, to "Thomas Jefferson, John Adams, and Charles Carroll, the Surviving Signers of the Declaration of Independence." The Virginian and the son of Massachusetts have long been known to the world through voluminous volumes, containing all that they wrote, and portraying all that they achieved on the stage of American history. But it has not been so with the Marylander. The biography of Charles Carroll of Carrollton, the last of the Signers, has never been fully written. And it is believed that the publication of his letters and papers, with a detailed account of his public services, will be acceptable to all historical students, and will enhance and substantiate the already high reputation of this pure and noble-minded statesman, the peer in character and intellect of any of the great Revolutionary leaders.

Charles Carroll's life may be roughly divided into three periods: thirty years, more than half of them spent abroad, in preparation for the patriotic duties which awaited him; thirty years in the service of

his State and country; thirty years in scholarly retirement, where, as a close and interested observer of public events, he remained in touch with the outside world even to the last months almost of an unusually long earthly career.

For the first period here enumerated, the chief interest of this biography will centre in the correspondence between Charles Carroll of Carrollton and his father, of which there remain letters dating from 1753 to 1764 inclusive. The second period will include the Revolution and the stirring years in Maryland preceding it, when, in 1773, Charles Carroll first became known as a patriot, through the famous "Letters of the First Citizen." His mission to Canada, his course in the Continental Congress, where he signed the Declaration of Independence, his service in the Revolutionary councils of Maryland, and finally in the United States Senate and in the Senate of his native State, make up a brilliant and important parliamentary record ending only with the defeat of the Federalists and the election of Jefferson in 1801. The closing period of thirty years presents to us the philosopher, looking out from his retreat at the busy scenes in which he had borne so conspicuous a part, and at the first a pessimist, as was natural with a leader of the party out of power, but afterwards more hopeful of his country's future, and always solicitous for the public good. Finally, as his eminent contemporaries drop down, one by one, at his side, he is left to receive, concentrated upon his venerated person, the respectful affection and esteem he had hitherto shared with others. And men felt

that in awarding to Carroll that tribute which was his by virtue of his position as the last of the band of 1776 who had signed the Charter of Independence, they bestowed it felicitously, where singular piety and private virtue added lustre to talents and civic integrity.

In 1895, when Charles Carroll had been in his grave sixty-three years, his name and fame had become so enwoven with Maryland history and tradition as to make his story appear, in his own State, a fitting theme for the drama. He was impersonated at this time, on the Baltimore stage, as the youthful hero of a play, with its due commingling of love, patriotism, and adventure. The venerable sage, whom the great-grandfathers of eighty to-day recollect as they saw him in their boyhood, was to be associated in the imaginations of the youth of this generation with those early years when, fresh from the old-world splendors of Paris and London, Carroll came back to his provincial home across the sea to find the whole land tingling and throbbing with the first ardent pulsations of the approaching Revolution. It is fitting, perhaps, that almost simultaneously with this romantic and dramatic presentation of Charles Carroll of Carrollton, history's soberer muse should render him the tribute his merits demand, correcting tradition and shunning fable, and, wherever it is possible, letting his own pen guide her record.

PREFACE.

WHILE it is believed that the biography of Charles Carroll of Carrollton will meet a public want, it should be here stated that these volumes have been prepared at the request of a member of the Carroll family who defrays the whole cost of their publication. The descendants of Charles Carroll who have given the author the use of their family papers, as indicated in the footnotes to this work, are the Hon. John Lee Carroll of "Doughoregan Manor," Maryland, the Rev. Thomas Sim Lee of Washington, D. C., and Mrs. William C. Pennington of Baltimore. From the late Dr. Charles Carroll Lee of New York a letter of his ancestor was procured. And assistance in compiling the Genealogical Notes has been afforded by Genl. Charles Fitzhugh of Pittsburg, Pennsylvania, a descendant of the Carrolls of Duddington. A list is given below of the autograph collectors and others who have courteously responded to the request for copies of their Carroll letters, though some of those sent were not deemed of sufficient historical importance to be included in the biography:

The late Dr. John S. H. Fogg of Boston; Dr.

Thomas Addis Emmet, D. McN. Stauffer, William Bailey Faxon, and Hiram Hitchcock of New York; Charles Roberts, Simon Gratz, Stan. V. Henkels, and Charles P. Keith of Philadelphia; Worthington C. Ford, from the collection of the late Gordon L. Ford, Brooklyn, N. Y.; Nathaniel Paine, Worcester, Mass.; Frank D. Andrews, Vineland, N. J.; Charles J. Hoadly, LL.D., Hartford, Conn.; Robert J. Hubbard, Cazenovia, N. Y.; Arba Borden, Dorchester, Mass.; Howard K. Sanderson, Lynn, Mass.; John M. Hale, Philipsburg, Penn.; Peter Van Schaack, Chicago, Ill.; Miss M. A. Cohen, Baltimore, Md., from the collection of the late Dr. Joshua I. Cohen.

Valuable letters were obtained from the Archives of the State of Maryland, in custody of the Maryland Historical Society, and from the manuscript collections owned by the Society, every facility for making copies being given the author. She met with similar consideration from the Johns Hopkins University, where there are some quite important Carroll papers among the Scharf MSS. there. Copies of Carroll letters were also kindly given the author by Mr. Martin I. J. Griffin of Philadelphia, editor of "American Catholic Historical Researches"; by the Oneida Historical Society, Utica, N. Y., through its Corresponding Secretary, Genl. Charles W. Darling; by the New York State Library, Albany, through George R. Howell, Archivist; and by the Wisconsin Historical Society, Madison, through its Secretary, Reuben G. Thwaites. From the Pennsylvania Historical Society, the Harvard College

Library, and the Department of State, permission was obtained to have the valuable Carroll letters in these repositories copied.

The author takes pleasure in expressing her thanks for very great assistance in her researches in Annapolis, to Mr. George H. Shafer of the Land Office. She acknowledges her obligations also to the Librarians of the State Library at Annapolis, the Historical Library, Baltimore, and the Congressional Library, Washington; and for services of various kinds she is indebted to Dr. Edmund J. Lee of Philadelphia; to Mr. William C. Pennington, Mr. Henry Thompson, Mr. John C. Carpenter, Dr. Christopher Johnson, and Mrs. Fielder C. Slingluff of Baltimore; Snowden Hill, Esq., of Upper Marlboro, Md.; the Rev. J. H. Richards, S. J., President of Georgetown College, Georgetown, D. C.; and Mr. George G. Eaton, Mrs. Vernon Dorsey, and the late Dr. Joseph M. Toner of Washington, D. C.

It is greatly to be regretted that the collection of Charles Carroll's correspondence, and other papers, in possession of Miss Virginia Scott McTavish of Rome, Italy, have not been accessible to the present writer. It is believed, however, that copies of the more important letters were made by Mr. Pennington and the Rev. Mr. Lee, and are therefore included in these volumes.

In classifying the autographs of the Signers of the Declaration of Independence, Charles Carroll of Carrollton's is placed among those most readily obtained. He must have written thousands of letters in the course of his long life. Dozens of them have

passed through the hands of autograph dealers within recent years. At "Doughoregan Manor" there are over a hundred letters of Charles Carroll to his son, from which selections have been made for this biography. And in the McTavish Collection there are many of Charles Carroll's youthful letters, written to his father. Mr. John C. Carpenter had the McTavish papers in his hands in 1874, while writing his Carroll articles for *Appleton's Journal*, and made selections from them. They contain, it is understood, some important correspondence relating to French-Canadian affairs, in connection with the mission to Canada in 1776. The commercial value of Charles Carroll's letters may be indicated by the sums the Carroll letters in the Leffingwell Collection brought, at the auction sale of the latter in 1891. Nine letters, quarto size, of from one to three pages in length, almost all having good portraits attached to them, brought only sums ranging from $2.25 to $9. A letter of one page folio, however, dated 1777, sold for $22. Mr. Walter R. Benjamin of New York, the autograph dealer, it may be added, asked $10 and $15 apiece for some Carroll letters he had for sale, several years ago.

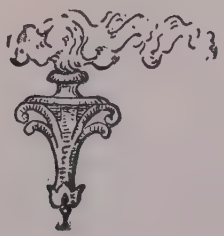
It should be explained in regard to the notes to the "Letters of the First Citizen," that those which designate the sources of the classical quotations are not Carroll's. Many of these Latin lines or phrases were so incorrectly printed in the old newspapers from which these essays are taken, as to be scarcely intelligible. And they were traced to the originals for the present writer by a gentleman familiar with

classical literature, who has thus rendered a needed service to Charles Carroll's reputation for elegant scholarship, by enabling the copyist to reproduce his quotations in the form he must have penned them himself.

The Canada Journal of Charles Carroll, given in the Appendix, is republished from the Maryland Historical Society's "Centennial Memorial." The original manuscript, which is in possession of the Society, and was first published by them in 1845, was given to them in 1844 by Mrs. Emily Caton McTavish, she having received it from her grandfather, Charles Carroll of Carrollton, in 1823.

It will be of interest to genealogists to know that an investigation of the line of Anthony Carroll of Lisheenboy (see Chart) is now being conducted in Ireland, which it is believed will establish the parentage of James Carroll of Anne Arundel County, whose will is given in these volumes.

BALTIMORE, *November 24, 1897.*



BIBLIOGRAPHY.

Biography of the Signers to the Declaration of Independence. Published by R. W. Pomeroy. *Sketch of Charles Carroll of Carrollton*, by JOHN H. B. LATROBE, in Vol. VII., 1827.

New York Truth Teller, (article supposed to have been written by DR. RICHARD STEUART), 1827.

Niles' Register, Vol. XXXVIII., 79, 1827.

The Casket, 457, 1830.

New York Mirror, Vol. X., 33, 1832.

New England Magazine, Vol. III., 519, 1831–1835, Boston.

American Magazine [*American Monthly Magazine?*], Vol. I., 427, 1833–1838, New York.

Eulogy on Charles Carroll, REV. CONSTANTINE PISE, Georgetown, 1832.

Eulogy on Charles Carroll, John Sergeant, Philadelphia, 1832.

National Portrait Gallery, Vol. I., 35, 1834.

Historical Sketches of Statesmen of Time of George III., by HENRY, LORD BROUGHAM, Vol. III., London, 1856.

Historical Magazine, November, 1868.

Judson's Sages and Heroes, p. 63.

Appleton's Journal, Vol. XII., Nos. 286, 287, 1874.

Potter's American Monthly, Vol. VII., 402, 1876.

Maryland Historical Society's Centennial Memorial, Introductory Memoir, BRANTZ MAYER, Baltimore, 1876.

Catholic World, Vol. XXIII., 537, 1876.

Biographical Sketches of Distinguished Marylanders, by ESMERALDA BOYLE, Baltimore, 1877.

Magazine of American History, Vol. II., 100, 1878.

The Homes of America, MRS. MARTHA J. LAMB, New York, 1879.

Charles Carroll of Carrollton, Last Surviving Signer of the Declaration of Independence, by REV. HORACE EDWIN HAYDEN, Wilkesbarre, Pa., 1894.

PORTRAITS OF CHARLES CARROLL OF CARROLLTON.

1.—Charles Carroll, ten years old (taken in Paris?).
Owned by Mrs. C. C. McTavish, Art Gallery, Maryland Historical Society.

2.—Charles Carroll, taken in London by Sir Joshua Reynolds.
Owned by Mrs. C. C. McTavish, Art Gallery, Maryland Historical Society.

3.—Portrait by Thomas Sully.
Owned by Mrs. C. C. McTavish, Art Gallery, Maryland Historical Society.

4.—Portrait by Gilbert Stuart.
Owned by Mrs. C. C. McTavish, Art Gallery, Maryland Historical Society.

5.—Portrait by Charles Willson Peale.

6.—Portrait by Benjamin West.

7.—Portrait by Chester Harding.

8.—Portrait by R. Field (painted in 1803).

9.—Portrait by —— Nichol.
Owned by Mrs. C. C. McTavish.

10.—Portrait by Charles Bird King, (or Samuel King) painted in 1816.

11.—Portrait by W. J. Hubbard.
Owned by Mrs. C. C. McTavish, Art Gallery, Maryland Historical Society.

12.—Portrait by M. Lati, after G. Stuart.
Owned by Maryland Historical Society.

13.—Crayon Profile by Charles Balthazar Julien Févre de St. Mémin.
Owned by Corcoran Art Gallery, Washington, D. C.

14.—Full-Length Portrait by Sully.
In Senate Chamber at Annapolis.

15.—Bust of CHARLES CARROLL OF CARROLLTON, by Browere, taken in 1826.

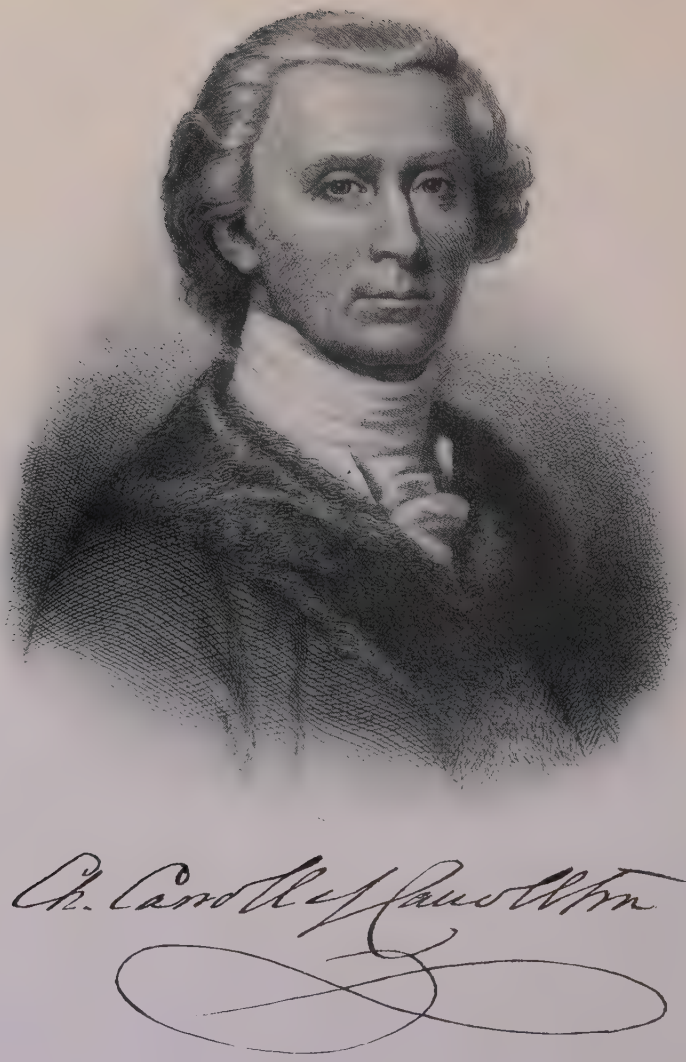
Field portrait, engraved by Longacre (in *Biography of the Signers*, etc.).

Harding portrait, engraved by Durand.

Sully portrait, lithographed by Newsane.

Lati portrait, engraved by H. B. Hall (in *Maryland Historical Society's Centennial Memorial).*

THE LIFE OF
CHARLES CARROLL OF CARROLLTON



Ch. Carroll of Carrollton

LIFE AND CORRESPONDENCE OF

CHARLES CARROLL

OF CARROLLTON

CHAPTER I.

ANCESTRY AND EARLY YEARS.

1688–1758.

THE Carrolls of Carrollton and Doughoregan Manor, Maryland, trace their descent to the old Irish princely family of the Carrolls of Ely O'Carroll, Kings County, Ireland.[1] Fiam or Florence, King of Ely, who died in 1205, was the ancestor in the fourteenth degree of Charles Carroll, Attorney-General of Maryland in 1688, the first of his line in the province. But at the time of the American Revolution, there were two other Carroll families prominent in the social and political life of Maryland; the family of Dr. Charles Carroll of Annapolis, who was descended from an older branch of the Ely O'Carrolls, and the family of Archbishop Car-

[1] *Journal of Royal Hist. and Arch. Association of Ireland*, vol. vi., 4th series.

roll and his brother, whose paternal pedigree has not been traced beyond their grandfather. There was still a fourth Carroll family in Maryland, which had been conspicuous earlier, in the person of James Carroll, a relative of Dr. Charles Carroll and the Attorney-General. From one of James Carroll's brothers, it seems probable, the Carrolls of Somerset County descended, a grandson of a James Carroll of Somerset becoming Governor of Maryland in 1830.

With the long and honorable Celtic pedigree of his paternal ancestry, Charles Carroll of Carrollton, the subject of this memoir, united in his lineage several strains of English blood of more than ordinary antiquity and prominence, through the families of the Hattons, Lowes, and Sewalls; of the Darnalls of Hertfordshire, England, and of "Portland Manor" and the "Woodyard," Maryland, and the Brookes of Whitechurch, Hants, England, and of "De la Brooke" and "Brookfield," Maryland. Charles Carroll's ancestress, Jane Lowe, Mrs. Henry Sewall, marrying secondly, Charles, third Lord Baltimore, connected him also with the family of the Proprietary.

Charles Carroll, the grandfather of Charles Carroll of Carrollton, came over to Maryland, October 1st, 1688. He was at this time twenty-eight, having been born in 1660. He had been educated at the University of Douai in France, and had been a student of law at the Inner Temple, London, in 1685. His descendants have preserved two papers showing his connection with this latter institution. The first

is a copy of his admission, written in Latin, and is dated May 7th, 1685:

Interius Templum, Carolus Carroll secundus Filius Danielis Carroll de Ahagurton in Reg Comitatu in Regno Hiberniae Gen generaliter Admissus est in Societat istius, etc.

The other manuscript is the letter "To Mr. Minors, Chief Butler of the honble. Society of the Inner Temple, London," dated May 6th, giving him notice that "Charles Carroll, Gent.," was to be admitted by him "into Comons."[1]

After leaving the Temple young Carroll went into the service of William Herbert, Lord Powis, one of the ministers of James II., as his clerk, or secretary, and a little later he determined on his plan of emigration. Charles Carroll of Carrollton is reported to have given the following traditional account of the motives inducing his ancestor to leave England:

"Remarking to his lordship [Lord Powis] one day, that he was happy to find that public affairs and his majesty's service were proceeding so prosperously, the secretary received for answer, 'You are quite in the wrong, affairs are going on very badly; the king is very ill-advised.' After pausing a few minutes, his lordship thus addressed Mr. Carroll; 'Young man I have a regard for you, and would be glad to do you a service, take my advice; great changes are at hand, go out to Maryland, I will speak to Lord Baltimore in your favor.' He

[1] Family papers, Rev. Thomas Sim Lee.

COLLEGE
LIBRARY

did so, obtained some government situation, with considerable grants of land, and left his family among the largest proprietors in the Union." [1]

But all was not smooth sailing at first. Hardly had Charles Carroll arrived in Maryland, when there took place in the province following in the wake of the English change of dynasty, what is known in Maryland annals as "the Protestant Revolution." The proprietary government of Lord Baltimore was overthrown in November, 1688, and in 1692 the Crown assumed the government, making Maryland a royal colony, which it remained until 1715. However, Lord Baltimore was secured in the possession of his private rights, his ownership of the soil and the vacant lands, the quit-rents, port dues, and one half of the tobacco duties. But it was not without a struggle and bitter protests, that the friends of the Lord Proprietor saw the functions of the government taken from him. Charles Carroll had come over with the commission of Attorney-General in his pocket, and his appointment had been confirmed to him by the Council, October 13th, 1688.[2] He stoutly resisted the subversion of Lord Baltimore's government, and wrote to him indignantly in September, 1689, of the "strange rebellion your ungrateful people of this your Lordship's Province have involved themselves in." We find him in 1691–92 a prisoner "for high misdemeanours." [3] Sir Lionel Copley, the Royal

[1] "Biographical Sketch of Rt. Rev. John Carroll," by John Carroll Brent, p. 16.

[2] Maryland Archives, vol. viii., p. 47.

[3] *Ibid.*, pp. 124, 246.

Governor, committed him into custody for "several reflecting speeches and discourses against the Government."[1] In April, 1693, Mr. Carroll wrote to Governor Copley saying he had been a fortnight in the sheriff's custody, and asking for "bayle." He had been accused of "ridiculing the Government," and saying, "he valued not Bonds for that for a small matter he could procure a *Noliprosequi* out of England, and that for a bottle of Cyder or some such inconsiderable value he would clear Mr. Batson, his fellow Boudsman," etc.[2] Dimly through the Council proceedings, one discerns the high-spirited and irate young Attorney-General, resenting the injuries sustained by his patron and friend, and suffering the political persecution inflicted by the successful party.

Cecelius Calvert, a convert from the Anglican to the Roman Catholic Church, second Lord Baltimore and first Proprietary of Maryland, of which province he was the overlord for forty-three years, was never in the colony. His brother had been sent over by him as Governor. And Charles, third Lord Baltimore, was the one who was deprived of his political administration. But he had still much power and patronage left. Charles Carroll received from him the appointment of Judge, and Register of the Land Office, an important and lucrative position. He succeeded Col. Henry Darnall who died in June, 1711, and whose daughter he had married. Charles Carroll rapidly acquired lands in the province, nam-

[1] *Ibid.*, p. 495.
[2] *Ibid.*, p. 508.

ing several of these tracts after places which had belonged to his family in Ireland. "Carroll's Forest," consisting of five hundred acres, in what is now Prince George's County, was surveyed for him, May 3d, 1689; "Elyo Carroll," one thousand acres in Baltimore County was surveyed in January, 1695, and soon after "Litterlouna," in the same county, a place of four hundred acres. The original name in Ireland was Litreach-Luna. "New Year's Gift" was surveyed for him January 10th, 1700, a plantation of thirteen hundred acres, "at a place called Elk Ridge." In 1701 and 1702, he obtained other tracts of land of nine hundred and sixty-nine, and one thousand acres in Baltimore County, and in 1707 he added to his possessions "Clynmalyra," an estate of five thousand acres, and the princely domain of "Doughoregan" consisting of ten thousand acres.[1] He owned also at this time "Enfield Chase" in Prince George's County, and later many other tracts of land in various parts of Maryland, amounting in all to about sixty thousand acres.[2]

Evidently Charles Carroll was personally a favorite of Lord Baltimore, who must have found his social qualities such as would make him a desirable neighbor, for in one of his letters he writes that Mr. Carroll is to have so many acres assigned him "as near as possible to one of the Proprietor's Manors, for the benefit of his society."

[1] The parchment deeds of "Doughoregan" and other tracts of land are framed and preserved at the Manor.

[2] Rent Rolls of Anne Arundel, Baltimore, and Prince George's Counties. Calvert Papers, Md. Hist. Society. Land Office Deed Books, Annapolis.

A small brick house and two lots of ground in the "Port of Annapolis" were granted Charles Carroll by the Proprietary, October 10th, 1701, "for and in consideration of the good and acceptable services to us done by the said Charles, and the better to enable him to continue in the performance of the like good services for the future to us and our heirs," etc. This apparent graciousness and generosity, however, meant only a clear title, for Charles Carroll had to buy the house and lots from the widow of the late owner. He petitioned Lord Baltimore for permission to make the purchase, and then paid him a quit-rent of two pounds yearly.[1] We find Charles Carroll making a visit to England in 1702,[2] but do not know how long he remained abroad. In Lord Baltimore's instructions, "to be observed and pursued by Charles Carroll, my Agent and Receiver-General in Maryland" dated September 12th, 1712, Carroll is charged to pay in tobacco yearly various persons for their services, and "To yourself, 12000 [pounds] of tobacco for your advice and trouble about my law concerns," adds the Lord Proprietary. In this paper he says: "I do hereby confirm a grant passed by Col. Henry Darnall, to yourself, of two hundred acres of land near the city of St. Mary's," which place, until 1694, was the capitol of the province.[3]

Lord Baltimore also empowered Charles Carroll to appoint surveyors, and displace incapable ones, making him temporarily his Surveyor-General. Charles

[1] Calvert papers, MS:, Maryland Historical Society.
[2] Council Journal, October 12, 1702.
[3] Land Office, Deed Books; Boyle's "Marylanders," p. 79.

Carroll of Carrollton, in a letter giving an account of his ancestry written in 1830, says of his grandfather:

"A Roman Catholic by religion, he resolved upon withdrawing from the oppressions of that period by emigrating to this country. He selected Maryland chiefly because toleration was by Royal Charter extended to it, and afterwards confirmed by Provincial Statute. Upon leaving the mother country, he changed (with a felicity of thought almost prophetic) the motto of his family arms ["*In Fide et in Bello fortes*"] to '*Ubicumque cum Libertate*,' in allusion to the cause which induced him to leave the shores of his native land. The Revolution of 1688 in England was succeeded by a revolution in Maryland, and my Grandfather was destined to experience even in the asylum he had selected, the evils of that religious persecution from which he had so recently fled. As a Catholic, he was deprived of office. In course of time, harmony was restored in Maryland, and Mr. Carroll was afterwards appointed by the 1st [2d] Lord Proprietor, (Charles, Lord Baltimore) his Agent, Receiver-General, Keeper of the Great Seal, and Register of the Land Office. He enjoyed these appointments until the year 1717, when the Government and Assembly passed Laws depriving the Roman Catholics of their remaining privileges."[1]

Charles Carroll's commission, recorded July 11, 1716, included the post of Naval Officer.[2] He had the authority to appoint "naval officers and land surveyors in the province," as his son writes in 1759, in a letter to Charles Carroll of Carrollton.

[1] MS: Letter, Addressed to Rev. Wm. B. Sprague, May 12, 1830.

[2] Deed Books, Land Office, Annapolis.

Charles Carroll was married after coming to Maryland, to Martha, daughter of Anthony Underwood, for whom a place called "Underwoods Choice" was surveyed, in St. Mary's County, in 1684. This lady died in October, 1690, and her only son, Anthony, died the day of his birth. The second marriage of Charles Carroll took place February 14th, 1693. His young bride Mary Darnall, who was probably not more than fifteen, was the daughter of Col. Henry Darnall of "Portland Manor," and his wife Elinor Hatton, widow of Maj. Thomas Brooke of "Brookfield." Ten children were born to Charles and Mary Carroll between the years 1695 and 1713. Of these, three sons and two daughters grew to manhood and womanhood. Henry Carroll, born January 26th, 1697, after being educated at St. Omer's, was sent to England to finish his legal studies, and was entered at Gray's Inn, September 16th, 1718.[1] He died at sea the 10th of April, 1719, on his way home to Maryland. Charles Carroll, born April 2d, 1702, the father of Charles Carroll of Carrollton, then became the heir, as the eldest son. Daniel Carroll, born October 30th, 1707, the youngest son of his parents, married Ann, daughter of Notley Rozier of "Notley Hall," Maryland, and became the progenitor of the Carrolls of "Duddington," Prince George's County. This estate is now within the precincts of Washington City, and the old mansion was torn down within recent years, to make way for modern improvements. Charles and Daniel Carroll, like their elder brother, were sent abroad for their edu-

[1] Foster's "List of Admissions to Gray's Inn."

cation, and a letter to them from their father, written in 1719, has been preserved, in which he tells them of Henry's death.

MARYLAND, July 7, 1719.

SONS CHARLES AND DANIEL :

I suppose you have before this time, had the afflicting news of your Brother's death within about six days saile of the Capes of Virginia as he was coming in ; it was upon the 10th day of April last. I hope you both know your duty upon so lamentable an occasion. The most that you and I or any other of his relations and friends can doe for him now is to pray for the repose of his soul, wherein I desire you will not be defficient, nor in minding the Sodality whereof he was a member, of what is usual to be done on such occasions. . . .

I have desired Mr. Kennett to remit your Rector ten pounds to be by him imployed after the best manner that such an occasion requires.

. . . . . .

Pray give my kind respects to the Rector, and the rest of the good family there, and acquaint him that I continue to you and your brother your usual allowance, besides defraying any necessarys, or journeys, or otherwise, and the same shall be remitted him as your pensions are. I do design, provided I hear you do well, that you shall not be behindhand in my esteem, with your brother, and therefore desire you will vigorously prepare for the defence of your Universal Philosophy, if the Rector and your Professor approves thereof, who shall be furnished with the necessary expence, but if they do not think that you can go through it with applause, it is better lett alone, for a dunce in a pulpit makes but a very awkward appearance. . . .

I am afraid your brother's theses are miscarried, for those of his last defence are not come to my hands yett. . . . Therefore desire you will take much the same steps your brother did, especially in your dedication to me, *mutatis mutandis* so that it appear not to be the same with the other.

Your mother designs, next spring, to go with your two sisters either to Graveling or Dunkirk ; when she is there I doubt not but the good nature and affection she has for her children will induce her to see you and your brother. But I should think it more convenient and less fatigueing to her, that upon her giving you notice of her arrivall and appointing you a time to meet her at Saint Omers you would do so, if it should not prove an interruption to your preparation for your defension, but I must leave that matter to her and you. She designs you shall come back with her for England, leaving your brother to finish his studies. I would have you stile yourself in your Theses, *Marylando-Hibernus.*

I have nothing more to say to you, save to recommend an exact discipline, both as to your eternal welfare, and virtuous demeanor in this life, and conclude

Your affectionate father,

CHARLES CARROLL.[1]

Charles Carroll died the 20th of July, 1720.[2] He had been in England in 1715, at the time of the death of his patron and client, Lord Baltimore, and while in London acted as attorney for Lady Baltimore on her husband's demise. When about to return to Europe in 1718, he made his will, which was

[1] Family papers, Rev. Thomas Sim Lee.

[2] Land Office, Chancery Suit, Darnall v. Carroll.

probated the 28th of July, 1720.[1] He appointed his three sons his executors, as Henry Carroll was then living, and the "overseers and trustees" of his will were "his loving brothers-in-law "Henry Darnall and Benjamin Hall, and his "kinsmen" James and Daniel Carroll. The death of the third Lord Baltimore in 1715 had been followed by the restoration of the Proprietary Government, in the person of Benedict Leonard Calvert, fourth Lord Baltimore, who had conformed to the Church of England. As Charles Carroll was a Roman Catholic, his fortunes had suffered some eclipse under the new order of things. Yet he was one of those of his religion who were exempted by name from the disqualifications imposed by the penal laws.[2] And that his power in the colony was not small at this time, is shown by the incident related of the Jacobite youths of Annapolis who, taking possession of an old cannon from the fort, fired a salute on the night of the Pretender's birthday, June 10th, 1716. The governor arrested the daring offenders and put them in prison, but Charles Carroll finding that one of them was his nephew ordered and obtained his release.[3]

That religious differences and animosities embittered life somewhat in the Maryland Eden, is very apparent, however. Governor Sharpe in one of his letters to the Lord Baltimore of his day, has the following allusion to Charles Carroll's death, and the state of feeling in the province between members of

[1] Register of Wills, Annapolis. Appendix C.
[2] Scharf's "History of Maryland," vol. ii., p. 128.
[3] Brown's "History of Maryland," p. 208.

the Anglican Church and the Roman Catholics. He writes: "Sometime before your Lordship was pleased to appoint me your Lieutenant Governor, one Mr. Carroll, a Roman Catholic died here and left a considerable estate to his two sons, having appointed two of his relatives their guardians and executors of his last will and testament."[1] The letter goes on to say that both of these gentlemen were at that time of the religion of the testator, and how one of them later joined the Church of England, and was publicly denounced by the other. Retaliatory words followed, and the matter was taken up by the Assembly, to which the Churchman was a delegate, the Lower House "resolving that Papists were bad members of the community," etc. The principle of religious toleration had not been accepted then, in Europe or America. And it must be remembered, in extenuation of the bigotry of the English Church, and of the English people in general, at this time and for a long period after, that Spain and France were the relentless enemies of Great Britain, and members of the Roman Catholic Church in Maryland, as in the mother country, suffered from being identified with the religious faith of the foreign foe.

Besides his property in Anne Arundel, Baltimore, and Prince George's Counties, Charles Carroll had acquired lands in St. Mary's and Charles Counties,—the manors of "St. Clements," "Bushford," "Westwood," etc.; land in Kent and Somerset Counties, and also in Westmoreland County, Virginia. He

[1] Archives of Maryland, "Correspondence of Governor Sharpe," vol. ii., p. 316. Ridgeley's "Annals of Annapolis," p. 95.

bought lots and houses in Annapolis, in 1713 and 1716 (on the Duke of Gloucester Street in 1713), and a plat, now lost, of part of the city of Annapolis, dated 1760, designated the "former dwelling-house" of the elder Carroll and the "former dwelling-house" of his son.[1]

Charles Carroll, the second of his name and line in Maryland, usually designated Charles Carroll of Annapolis, remaining abroad after his father's death, returned to Maryland in 1723–1724, at the age of twenty-one. His younger brother, Daniel, came home the following year.[2] In the absence of the brothers and during their minority, the estate had been managed entirely by their relative, Mr. James Carroll of Anne Arundel County. This gentleman, who was a man of prominence in the province, having been a deputy surveyor for Lord Baltimore and Keeper of the Rent Rolls, died apparently a bachelor, and making his will in 1728, named his nephew Anthony Carroll his heir. He left property in Annapolis to his "Cosin and Godson, Charles Carroll," including the "piece or parcel of a lot of

[1] Land Office, Charles Carroll v. Thomas Rutland, 1760.

[2] There is a discrepancy in Charles Carroll's statements as to the date of his return to Maryland. He writes in 1760 that he came back from school in 1720, but in a chancery suit, 1733, he speaks of his "return into this Province, which was in the year 1724" (C. Carroll and Daniel Carroll, heirs of Charles Carroll against John Parran and Mary Parran). However in the suit of Henry Darnall against Charles Carroll—Executor of Charles Carroll, deceased—1722–1731, Charles Carroll "makes answer at the court for April 1723." In one of his letters he speaks of being prevented from going to the Temple by his father's death. He had just finished his "philosophy," when he was recalled to Maryland.

ground given me by him and his mother." His "dwelling-place," and other lands in Anne Arundel County, "Carrollsburgh," etc., in Prince George's County, lots in "Queen Ann's Town," etc., servants and slaves, and most of his personal estate, James Carroll left in trust to his godson, for George Thorold of Charles Co., but he revokes the trust in a codicil, some days later, "through apprehension of the said Charles' death."[1]

James Carroll died at the house of his godson, Charles Carroll of Annapolis, the 13th of June, 1729, and his funeral took place on the 23d, when, says the Annapolis paper: "the Corps of Mr. James Carroll was interred at the Burial-Place of that Family, near this City, in a decent and handsome manner."[2] The Carroll graveyard was three miles from Annapolis. In 1729 Charles and Daniel Carroll sold sixty acres of land, on the Patapsco River, at forty shillings an acre, to the trustees of the new town of Baltimore. This land is at that part of the city's harbor now called the Basin.[3]

An old account book of Charles Carroll's has been preserved, of which the earliest entries date back to 1721, while James Carroll was managing his godson's property. The expenses of "Madam Mary Carroll" are set down, carefully enumerated. And we read of the price she paid for her "Leather Rimed Spectacles," of the oil she bought to "clean the Chariot," and of the "Kersey," "gimp buttons," and other articles designed for the wearing apparel of the old-

[1] Appendix C. [2] *Maryland Gazette*, June 17 and June 24, 1729.
[3] Brown's "History of Maryland," p. 211.

time Maryland matron.[1] In the summer of 1730, Charles Carroll, with his brother Daniel, was interested, it appears, in what he calls the "Virginian Project," Daniel Carroll making a trip to Virginia at this time on the business referred to. Eleanor Carroll, one of the two sisters, died in 1734, and an itemized account of the funeral expenses appears in the ledger. It included three dozen of men and women's "shamoy gloves," and three and a half dozen kid gloves, shamoy shoes for three ladies, four fans, four girdles and three buckles, two pairs of black knee breeches, two pieces of hatband crape, three pieces of white "ribband," four gauze handkerchiefs, ten yards of "superfine black cloth," and a hundred and eight yards of "finest crepe." To treat the large company of mourners, there were provided one dozen bottles of white and two dozen bottles of red wine, two dozen nutmegs, with mace, cinnamon, and cloves in proportion. The coffin cost three pounds, and twelve shillings was the amount paid "to the person who carried the corpse in the chaise to the place of burial."[2]

Daniel Carroll of Duddington died in this same year, 1734, when his son Charles was but five years old, and the child's uncle was made the guardian of himself and his sisters. This estate of his deceased brother, Charles Carroll managed from 1734, until long after his nephew had attained his majority. And Charles Carroll wrote of himself in 1761, when a lawsuit was pending between uncle and nephew:

[1] Carroll Papers, Scharf Collection, Johns Hopkins University.
[2] *Ibid.*

"I have from the time I came from school, in the year 1720, [1723] to the year 1757, been a constant servant of my family. The whole weight of the management of my father's estate and of my brother's and sisters' fortunes fell on my shoulders. I left my brother in Europe, my sisters were sent thither under their uncle Darnall's care for education. When it was proper to bring them home I could not prudently trust them to strangers, I went for them and bore my own expence." [1]

In 1739, Charles Carroll became involved in a small difficulty with the Proprietary Government. Daniel Dulany, Lord Baltimore's Attorney-General, accused him of refusing to pay quit-rent for the "Barrens," (1000 acres) and "Carroll's Delight" and "Carrollsburg," two tracts of 5000 acres each in Prince George's County, estates in which Charles, Daniel, and Mary Carroll had a joint interest. Charles Carroll wanted to appeal to his Majesty in Council, but his petition to this effect was refused. He was then arrested, "taken" by the sheriff of Anne Arundel County, at which indignity he was "greatly aggrieved." This is done, he says, "to his great vexation and unnecessary expense," before he can lay his case before his Majesty for his royal determination. He prays an appeal to the Court of Apppeals, and is "set at liberty" by order of the Court. William Cumming, Charles Carroll's counsel, refers to "instructions from the Crown," quoted in the case as "not of that force they are Pretended to be of—the said Instructions being given when the Inhabitants of this Province had the Happiness to be under the immediate Gov-

[1] *Ibid.* Letter of Charles Carroll to Clement Hill.

ernment of the Crown."[1] As the Lords Baltimore were now members of the Church of England, the "immediate Government of the Crown," was to be preferred, apparently, to the Proprietary sway. Mary Carroll had transferred her right in "Carroll's Delight" and "Carrollsburg" to her two brothers in 1734, and Daniel Carroll had by his will devised his share to his two daughters Mary and Eleanor Carroll.[2]

Mrs. Mary Carroll died in February, 1742. The glimpses caught of her through old letters and other documents, while residing at Annapolis through the twenty-two years of her widowhood, show that she enjoyed the esteem and confidence of her relatives and neighbors, was a good mother and grandmother, and a prudent manager of her plantations.

Charles Carroll of Carrollton was born at Annapolis, September 19th, 1737. His mother, Elizabeth Brooke, was the daughter of Clement Brooke and Jane Sewall, and was a near relative of her husband, being the daughter of Charles Carroll's maternal uncle by the half blood. At ten years of age, young Charles the third was sent to school at the Jesuits College of Bohemia on Herman's Manor in Maryland, where among his fellow students were his cousin John Carroll (related to him through the Darnalls), afterwards Archbishop of Baltimore, and Robert Brent of Virginia, who married a sister of John Carroll. From Bohemia the two Carrolls went together in 1748 to St. Omer's, the famous Jesuit College at the town of the same name, in French Flanders.

[1] Calvert papers, MS:, Maryland Historical Society.

[2] Chancery Suits, Land Office.

From this place where Charles Carroll of Carrollton remained six years, he went first to the College of French Jesuits at Rheims for a year, and then to the College of Louis le Grand at Paris. In 1753 Charles Carroll removed to Bourges, to study civil law, but at the expiration of a year he returned to Paris, where his father came over to visit him in 1757. He left Paris for London in this year, taking apartments at the Temple, and studying law there for three or four years; but "not with a professional view," as he says in one of his letters. In 1765, at the age of twenty-eight, he returned to America.

Maryland historians have designated three periods in the province, between 1715 and 1776, as times of special agitation and excitement in its annals; the first between 1722 and 1732, the second between 1754 and 1763, the epoch of the French war, and the third between 1770 and 1773. It was during the second of the two decades above named that Charles Carroll of Carrollton was completing his studies, in Paris and London, and forming himself for the career the future held out for him. And an interesting correspondence between the father and the son, covering most of these years, has been preserved, in which the details of Charles Carroll's life abroad, are put before us, and public events, both in Europe and America, are touched upon. The earliest letter of importance in this collection is as follows. It is written from Maryland by Charles Carroll the elder. It appears that the latter had been to London in 1751[1] and he probably went to see his son at this time.

[1] Land Office, Chancery Suit.

October 10th, 1753.

Dear Charley :

I received your several letters of August 30th, December 20th, 1752, and March 6th, 1753, which are all most welcome to me, and altho' a hurry of business prevents my often writing to you, you may be assured you are always in my thoughts and that I most earnestly wish your happiness. As you have no such avocations I desire I may often hear from you. Since you have not a good dancing-master, you were in the right to discontinue learning, but when you can meet with a good one you must resume it, for nothing contributes more to give a gentleman a graceful and easy carriage. You may sometime hence meet with a good painter and then with your mother I shall be glad to have your picture in the compass of 15 inches by 12.

Your opinion of Europe and the people there will be much altered when you return to your native country. Fops are the object of contempt and ridicule everywhere, but it is from the fine gentleman you are to take example. Dear child, I long to see you, but I did not send you so far only to learn a little Greek and Latin. Where you are you can only lay a foundation for other studies which may hereafter be profitable to yourself and useful to your friends. When you have gone thro' them the rest of your life will be a continued scene of ease and satisfaction, if you keep invariably in the paths of truth and of virtue. The husbandman annually repeats the toil of dressing, plowing and sowing for his harvest. When you have completed higher studies your toil will be over, and your harvest will daily and always come in. I am very glad to see you are so sensible of the advantages of a virtuous education, and that you are resolved to make the best use of it. Mr. Wappeler informs me you are

third in your school, which gives me great pleasure, and as your judgment unfolds itself and ripens, I expect to hear of your still rising ; *Aut Cæsar aut Nullus.* The ambition to excel in virtue and learning is laudable.

We are still threatened by our Assembly, but I hope by the interposition of our friends in London, it will not be in their power to hurt us. A continual calm in life is no more to be expected than on the ocean.

Pray present my humble services to your Master, whose care of and kindness towards you deserve greater acknowledgments from me than I have in my power to repay. I am under the same obligations to Mr. Wappeler and Newton, which, pray let them know with my humble service and compliments to them. I desire also my compliments to Mr. Falkner, and am very glad to hear he is contented in his station. If you please he may be of service to you in arithmetic. Jacky I suppose is gone up the hill. Remember me to Watty, Mr. Warring and all the Marylandians. Your mama, grandmama, aunt Jenny and all your friends in general are well. I hope the books got safe to you, and that Cicero's life has in particular given you pleasure.

You entered into the 17th year of your age on the 19th of last month, being born the 8th of September, 1737, old stile. Your judgment therefore will enable you to enter into the reason of the rules and lessons you are learning. Children learn like parrots, memory and practice aid them chiefly, but men of sense do not content themselves with knowing a thing, but make themselves thoroughly acquainted with the reasons on which that knowledge is founded. I beg you will carefully observe this in your present and future studies. Memory may fail you, but when an impression is made by reason it will last as long as you retain your understanding.

I cannot wish to have a better account of you than what I have from Messrs. Carvall, Wappeler and Newton, and I doubt not you will daily merit it more and more. If you do it will afford me the greatest comfort and satisfaction and increase the love I have for you.

I am, dear Charley,
most affectionately your father
CHARLES CARROLL.

To Mr. CHARLES CARROLL
at Blandike.[1]

The father wrote again to his son, September 30th, 1754:

"You say that you do not like Poetry nor succeed in it as well as in your other studies. This will find you at Rheims. You will there enter upon a new stage and enjoy a greater degree of Liberty than you have hitherto had. I trust that your conduct may be instructive and edifying to your schoolfellows.

It gives me great pleasure that you are so exceedingly fortunate as to have your cousin Anthony with you who can so much better serve you. Cherish and be thankful for the blessing, and to show that you are so, behave always with all possible respect towards him. Never be on the reserve with him, or backward in asking his advice in everything, though to you seemingly insignificant. Look always upon him as your Friend and not as your Tutor."[2]

Anthony Carroll was a second cousin of Charles Carroll of Carrollton, being descended from his grandfather's elder brother who had remained in

[1] Family papers, Mrs. William C. Pennington
[2] *Ibid.*, Rev. Thomas Sim Lee.

Ireland. A letter of the elder Charles Carroll is extant, written September 12th, 1755, introducing to some "reverend gentleman" whose name is not preserved, a survivor of the battle of Monongahela:

"The bearer, Mr. Hopkinson, is a young gentleman of this province, and went as a volunteer with General Braddock,—was in the unfortunate action at Monongaella [*sic*] where I am told he behaved well, and suffered much by the loss of his baggage, besides the expence he has been at in fitting himself out. Not discouraged by a loss which has much impaired his fortune, he is willing again to venture, and as it is fitting persons of such a disposition should be encouraged, I take the liberty to recommend him to you, having myself no interest, and if you will be pleased to recommend him to General Shirley, or any other person of interest, I doubt not he will behave in such a manner as to give you no reason to repent the favors you may show him." [1]

About this time, September 29th, 1755, Dr. Charles Carroll, father of Charles Carroll, barrister, died, at the age of sixty-four, having been forty years in the colony. He was associated with his relative Charles Carroll of Annapolis and Doughoregan Manor, in the Baltimore or Patapsco Iron Works Company, founded in 1731, in Baltimore, or Anne Arundel County. A letter from Dr. Carroll to Charles Carroll, Esq., written in 1748, and messages from one to the other in the correspondence of the two cousins through the years 1748 and 1749, with their relative, Richard Croxall, the manager of the works, attest the intimacy existing at this time between

[1] Pennsylvania Historical Society.

the two families.[1] Richard Croxall and his brother Charles are frequently mentioned in the Carroll letters. Their mother, Joanna Carroll was a sister of Mr. James Carroll. The exact relationship of James and Joanna Carroll to Dr. Carroll, and to the Carrolls of Carrollton, has not been determined. Charles Carroll left his affairs in charge of Richard Croxall, on his visit to Europe in 1757. He wrote to his son the following admirable letter, in 1756:

July 26th, 1756.

DEAR CHARLEY:

I have received the following letters from you Dec. 14th, 1755, one without a date, wrote as I suppose about the 10th of last January, and the last dated February 27th, 1756. You may be assured they were all very welcome to me and your mama. I suppose you may buy Locke and Newton in Paris, if not desire your cousin Anthony to write to Mr. Perkins to send them to you or any other books you may want. As war is declared I know not how you will get these books. The carriage through Holland will amount to more than the first cost. If they could be sent to Rouen they would by the Seine reach you at little expense.

Tho' we are threatened with the introduction of the English Penal Laws into this Province, they are not yet introduced. But last May a law passed here to double tax the lands of all Roman Catholics. I wrote you the 16th of last September and then inclosed one from your mama; as you do not acknowledge the receipt of that letter, I suppose your mama's letter miscarried with it.

I am glad to hear you enjoy your health at Paris. I

[1] Family papers, Mrs. William C. Pennington.

sent your letter to your cousin Walter Hoxton. There was no final decree against Dr. Carroll. He died before the cause was ripe for a trial, but I hope his son will be obliged in time to pay what his father justly owed. All your letters give reason to hope my scheme will succeed. I have wrote to cousin Anthony to whom I refer you on this head, as I refer him to you for what follows : You desire to know the origin of our American war, and the events that have happened in the course of it. I will endeavor to satisfy you in as clear and concise a manner as I can. If the priority of discovery was only to give a title to lands in America, the King of Spain would be entitled to all America ; as neither France or England would agree to such a claim each of them must found their title to their several dominions here in possession. The uncontested possessions of the English seem to be from Kennebeki River southward to the river Savanna which is the northern boundary of our new colony of Georgia.

The possessions of the French before the Treaty of Utrecht were from the Kennebeki to the northward to include Acadie, Ile Royal, all Nova Scotia, New France or Canada, and Louisiana. The first settlements of both nations were upon the shores of the seas and rivers that wash their several territories. As their colonies increased the French extended their settlements to the eastward, the English theirs to the westward. The settlements under the different nations now approaching each other the question is how far the English shall extend theirs to the westward and the French theirs to the eastward.

The English in many or most of their grants extend the western bounds of their colonies to the South Sea but may be not with much justice or reason, for by this pretension they would not only swallow up all the French

settlements on the Mississippi, but New Mexico which the Spaniards will hardly consent to. Nature seems to have pointed out other boundaries to the two nations which perhaps in the next treaty of peace they may establish. The French as settled on St. Lawrence and the Mississippi, I suppose claim all the lands watered by the several rivers and streams falling into the said rivers. The English by a parity of reason may as justly claim the lands lying on the several rivers and streams emptying themselves into the Atlantic Ocean. This division of the waters is made by the Apalathean Mountains which take their rise in the point of Florida and extend thence to the northward, inclining more or less to the eastward, and this chain of mountains as I said before, may perhaps be hereafter agreed on as the common boundary between the contending powers.

The dispute about their possessions to the northward is of a more intricate nature. The French were certainly the first settlers not only of Canada but of Nova Scotia and Acadie which they contend to be two different provinces. The English on the contrary contend that Nova Scotia includes all Acadie. The priority of the French possession of the aforesaid countries I believe is undisputed, and tho' they were formerly disturbed in their possession of Nova Scotia, under which name I include Acadie, yet by treaties Nova Scotia was always restored to them, except by the Treaty of Utrecht. By the Treaty of Utrecht the French ceded all Nova Scotia to England. The dispute at present between the two nations is about the bounds of Nova Scotia, which the French pretend to establish in such a manner as to leave out a great part of that province to themselves under the names of Acadie and Gaspisie. As far as I have read, the English by the Treaty of Utrecht, seem to have a right to all Nova

Scotia and Acadie, but as provinces and states seldom think themselves bound by treaties which unsuccessful war, or a bad state of their affairs, forces them to enter into, I imagine that France, seeing the importance of Nova Scotia and Acadie, not only to their trade and navigation, but to their colony of Canada, are now endeavoring to avail themselves of a favorable time and occasion to recover by force Nova Scotia and Acadie, which only force and necessity wrested from them.

Accordingly ever since the Treaty of Aix-la-Chapelle, the French have been encroaching on the English in Nova Scotia. They made some settlements at St. John's River in the Bay of Fundy, or as the French call it Baye François ; they erected forts on the peninsula between Bay Vert and Beaubasin. The English last summer took these places from the French by forces sent from New England, with little loss, and have removed all the French neutrals in Nova Scotia, some say to the number of 12 or 15000 souls, to their different colonies on the continent, where they have been treated with more or less humanity. It has been the misfortune of 900 and odd of these poor people to be sent to Maryland, where they have been entirely supported by private charity, and the little they can get by their labor, which for want of employment has been but a poor resource to them. Many of them would have met with very humane treatment from the Roman Catholics here, but a real or pretended jealousy inclined this government not to suffer them to live with Roman Catholics. I offered the government to take and support two families consisting of fourteen souls, but was not permitted to do it.

The case of these poor unhappy people is so hard that I wonder it has not been taken notice of by some of our political writers in England. They, since the Treaty of

Utrecht have been permitted to enjoy their property and possessions upon taking an oath of allegiance to the King of England. This oath they say they have never violated, the truth whereof seems to be confirmed by the capitulations of the forts of Beaubasin, by an article whereof the neutrals taken in these forts were pardoned as being forced by the French under the pain of military execution to take up arms. However their fidelity was suspected and they have been sacrificed to the security of our settlements in *her* part of the world. They have neither been treated as subjects or enemies; as subjects they were entitled to the benefit of our laws, and ought to have been tried and found guilty before they could be punished, and to punish them all, all ought to have been tried and convicted. If they are deemed enemies they ought to be treated as such and maintained as prisoners of war. But no care has been taken here in that respect.

These poor people for their numbers were perhaps the most happy of any on the globe. They manufactured all they wore, and their manufactures were good; they raised in great plenty the provisions they consumed; their habitations were warm and comfortable; they were all upon a level, being all husbandmen, and consequently as void of ambition as human nature can be. They appear to be very regular and religious, and that from principle and a perfect knowledge of their duty, which convinces me that they were blessed with excellent pastors. But alas, how is their case altered! They were at once stripped of everything but the clothes on their backs: many have died in consequence of their sufferings, and the survivors see no prospect before them but want and misery.

The first hostilities on the Ohio began in 1754. The Virginians attempted to build a fort there, which the

French prevented, and constructed one themselves called Fort DuQuesne. It was upon his march to this fort that General Braddock was defeated and killed. The victory was as complete as could be. We lost at least 800 in the field. The greatest part of our train and magazines fell into the enemies hands, the rest was destroyed to facilitate our retreat. What adds to our shame is that we suffered this disgrace from between three and five hundred Indians. This information I had from an officer of distinction who I believe knew what he said to be fact, and on whose honor and veracity I have reason to rely. I hope for the honor of the French nation, that Indians were only concerned in this action, for the wounded were all massacred, an inhumanity which I am confident French officers and soldiers would not be guilty of.

The next action of consequence was between the troops under the command of the Generals Dieskau and Johnson near the Lake of the Sacrament. The loss of men on either side was very inconsiderable; I believe we lost most, about three hundred. We were prevented from attacking Fort St. Frederic, as were the French from destroying General Shirley's army at Oswego on Lake Ontario, by cutting off the communication between Albany and that place, In case Dieskau (who is still at New York and likely to live) had been victorious Shirley must have surrendered himself, his army and Oswego, probably without striking a stroke. Albany must also have surrendered, and New York perhaps might have been destroyed, which will give you a proper idea of the importance of the lucky stand made by General Johnson, whose service has been honorably and bountifully rewarded by his Majesty.

Since that action both nations seem to act on a defensive plan, except that the French by parties have now

and then surprised small convoys of prisoners &c., going to Oswego. Our naval force on Lake Ontario according to our Gazettes, consists of seven armed snows, brigs, sloops and schooners carrying 22 six pounders, 52 four pounders, and 80 swivels, and upwards of 230 whaleboats each carrying 16 men. I know not what vessels the French have there to oppose us. Their not attacking Oswego last winter seems to point out their weakness. This is all I know of the events of the war to the northward to this time, except several murders committed by their savages.

From New York southward, since Braddock's defeat, the French have only attacked us by their Indians, who have [committed] and still continue to commit, the most shocking barbarities on our back settlers in Pennsylvania, Maryland, and Virginia ; but I find these our sufferings are vastly magnified in the English papers. I do not believe these provinces have lost at this time, killed and captivated, three hundred souls, 200 in Pennsylvania, about 25 in Maryland, the rest in Virginia. The remotest of my lands have not suffered, and I think myself and your mama to be in no more danger than you are at Paris, Maryland being in a great measure screened by the more advanced settlements of Pennsylvania and Virginia. The Indians act as wolves in small parties and by surprise, and it is no wonder that the British subjects entirely undisciplined, should hitherto have suffered, but daily precautions are taking for our security, by erecting lines of forts on all our frontier, which will not only protect us but intercept the savages on their retreat, which they constantly make as soon as they [paper torn]. My plantation where you lived has been greatly improved. But that and all my other possessions I am determined to quit, if I can meet with the success I expect from my

scheme. I shall remove from a settled and a well improved estate, and in the sale of which I expect to lose to the value of at least £10,000 sterling; but to procure ease to myself by flying from the pursuits of envy and malice, and to procure a good establishment for you, I am willing to undergo and struggle with all the difficulties and inconveniences attending on a new settlement in a new climate. There is but one man in the Province whose fortune equals mine. Judge from this of the love I bear you, but at the same time be persuaded that my affection is greatly increased by the most agreeable accounts I receive of your pious, prudent and regular behavior, of your sweet temper and disposition, of the proficiency and figure you make in your studies.[1]

Mrs. Carroll writes to her son:

"Watty Hoxton came to see us about three weeks ago. He told me he would answer your letter by the first opportunity. I bid him inform you he was going to be married. He is to be shortly married to an agreeable young woman of a good fortune and a Roman Catholick. I wish him [paper torn] happy but I think him quite too young to marry. You are always at heart my dear Charley, and I have never tired asking your papa questions about you. I daily pray to God to grant you his grace above all things, and to take you under his protection."[2]

Charles Carroll very naturally chafed under the disabilities suffered by the Roman Catholics in Maryland at this time, and he thought seriously of leaving the province altogether. At the head of other gentlemen of his faith, he proposed to obtain

[1] Family papers, Rev. Thos. Sim Lee.

[2] *Ibid.*, Mrs. William C. Pennington.

from the French court the grant of an immense tract of land on the Arkansas River in Louisiana. But objection was made to the extent of the territory asked for, and other obstacles intervening, the project was delayed, and as the unfriendly laws were relaxed, it was finally abandoned. To look after his "scheme" for moving to Louisiana, was one of the objects of Charles Carroll's visit to Europe the following year. He set sail early in June, 1757. In the correspondence of Governor Sharpe is the following reference to his movements, and an estimate of his character and standing, proving that he was looked upon as a leader in the community. It was not surprising that the Roman Catholics regarded Governor Sharpe as their "professed enemy," as he himself says, for he had just passed, against their urgent protest, the law for the double assessment of their lands. The letter is to the Governor's brother, William Sharpe, in London, and is dated July 6th, 1757. Governor Sharpe writes:

"One Mr. Carroll, who is at the head of that sect [the Roman Catholics,] and is possessed of a fortune of £30,000 or £40,000 sterling, among us, has taken a passage to England in a vessel that lately sailed hence, and will probably be in London before this can be delivered. What his views or intentions are in taking such a voyage at this time I know not. It has been said that he has thought of leaving Maryland and carrying his fortune to Europe. He has a son about twenty two years of age, now at Paris, and if he should determine to spend the remainder of his life in Europe it is not improbable that he will take up his residence in some

part of France, as he seems by sending his son to that kingdom while he was very young, and by supporting him there since he has finished his studies, to prefer that country. He is a sensible man, has read much and is well acquainted with the constitution and strength of these American colonies. If he is inclined to give the enemy any intelligence about our American affairs, none is more capable, but indeed I do not conceive he has any such intention. He was heretofore a bitter enemy to the Lord Proprietary, but having behaved with moderation since I came hither, we were on good terms until I incurred his displeasure by assenting to an act which I thought equitable and which you say appears to you in the same light. Since that time all correspondence between us has been broken off. I presume he will be much among the merchants while he stays in London, and in particular with his friend Mr. Philpot. Should he endeavour to do me any prejudice with my Lord [Baltimore] or any one else during his residence there, I hope you will be able to render his attempts abortive."[1]

On his way back to America, in the winter of 1757–1758, Charles Carroll wrote from London the following letter to the son with whom he had parted in Paris a few weeks previously. The upper part of the first page in the original is torn:

[London, January, 1758.]

I wrote to you I think the 15th of December, the day after my arrival here, and January 1st, acknowledging the receipt of yours of December 19th, and this is an answer to yours of December 28th. In your last you

[1] "Correspondence of Governor Sharpe," Archives of Maryland, vol. ii., p. 46.

DOMINICAN COLLEGE LIBRARY SAN RAFAEL

say you wrote to me the 11th of December; if you did so the letter is not come to hand. I hope my letters to you have not miscarried, but that the first reached you in a few days after the date of your last. My dear child, I thank you for your good wishes, nothing can happen to me more agreeable than a completion of them. However, I beg you will be persuaded, that in every step of mine relating to you, your happiness only has been my aim. Make use of the advantages I give you; improve your time, and in a few years you will clearly see the advantages bestowed on you by a provident and tender father.

I am well pleased you consider how your money goes out; keeping regular accounts need not restrain you from things necessary and decent, it will rather enable you to procure them with the greater satisfaction, as by a review of your accounts you will see whether your money has been well or needlessly expended. As to things decent and necessary you must have them. I shall not begrudge my money if paid out in that way, and therefore you must draw on Mr. Perkins. [paper torn] should have money in his hands which I have hopes of. You did well to write to L' Isle Dieu. I have also wrote to him. Pray write to Mr. Crookshanks to get your Master an English and French Dictionary. Do not consult me on such trifles. Pray present my compliments to Messrs. Mat Fiteau and any others to whom you think yourself more particularly obliged. I have bought the translation of Pindar for Mr. Power which shall be sent by the first conveyance, and I desire you will present my sincerest service and compliments to him, wishing him many happy New Years.

I advise you not to make too general an acquaintance. A return of civilities is to be paid to all; an intimacy

is not to be contracted with any, until you are well acquainted with their characters and manners and until you are convinced they are in the esteem of good men. It is much easier to make acquaintance than to shake off acquaintance when made. Be nice in this point, and very circumspect in the choice of your friend, the number that will deserve that name I am certain will be but small. Be regular in the distribution of your time ; relaxation is necessary, two afternoons in a week will not be too much. All beginnings are difficult. Your understanding will open in proportion to the progress you make in reading. By a compendium you may probably mean what I mean by a Common Place book which I mentioned and recommended in my last [paper torn]— of last November. He says he saw your mother, that she was very well and in high spirits, having heard of my safe arrival. Capt. Carroll, Mr. Croxall and Daniel Carroll all desire their compliments and services to you.

General Mordaunt has been acquitted by the Court martial but with General Connoway and another has been disgraced by his Majesty, being struck off of the list of staff officers. We have taken 3 or 4 French frigates since my arrival here, and by the papers of yesterday a frigate of 36 guns overset in chacing and every soul perished. We have besides taken a great number of privateers and three transports, vessels with provisions, and 1800 soldiers bound to Louisburg, and we were in pursuit of three more. Our superiority at sea is so great and our attention to America so much in earnest, 2000 soldiers going thither immediately and 8000 to follow in six weeks, that we flatter ourselves we shall not only be able to keep down the marine of France and entirely destroy her trade, but that we shall be able next summer to distress her greatly in America,

while by supplies to the King of Prussia, we shall keep her fully employed on the continent.

I thank God I am very well. I dayly pray to Him to keep you so. I wish you many, many happy New Years, and I am,

your most affectionate father

CHA : CARROLL.

P. S. Dear Charley, Another secret expedition is much talked of. I believe I shall not leave London before the first of March.[1]

[1] Family papers, Mrs. William C. Pennington.

CHAPTER II.

STUDENT LIFE ABROAD.

1758–1764.

CHARLES CARROLL of Carrollton had now attained his majority, but was to remain abroad some years longer. His father still entertained thoughts of leaving Maryland. The condition of the Roman Catholics, in the province founded as an asylum for those of this faith, was no better than in any other English colony. The discriminating test-oaths, enforced to protect the Hanoverian dynasty from the Jacobites, excluded Roman Catholics from the Assembly, prevented them from holding office, denied them the privilege of the suffrage. They were not allowed the public exercise of their religion. For this reason gentlemen of means had their private chapels, and Charles Carroll had one at his town house in Annapolis, as well as at "Doughoregan Manor." The mansion at the latter place had been completed, it is said, by the first Charles Carroll, about 1717, though it had been considerably altered and extended since. Returning from his visit to Paris, Charles Carroll

the elder arrived "at his seat in town," Sunday evening, June 11th, 1758, making the voyage on the *Duke William*, Captain Bradford, after a stormy passage lasting over two months. The ship was one of a fleet of twenty under convoy of the man-of-war *Chesterfield*.[1] The father wrote to the son February 19th, 1759: "I observe the advance you have made in reading the civil law." In April he tells him: "I shall write to Mr. Perkins as you desire, to take Chambers in the Temple on your arrival in London." The son was established in the English metropolis, and engaged in his legal studies when his father wrote to him as follows:

October 6th, 1759.

. . . Altho' I still think it will be for your interest and happiness to sell my estates in Maryland, yet I would not have you either decline or solicit an acquaintance with Lord Baltimore or his uncle Mr. Caecelius Calvert. If you should accidentally fall in their way you may when proper let them know that you are not unacquainted your grandfather came to this country after regular study of the law in the Temple, Attorney General; that he was honored with the posts of Agent, Receiver General, Judge in Land affairs, Naval Officer, and that he had the appointment of several naval officers and land surveyors in the Province; nor that after he had served three Lord Baltimores for many years with credit and reputation he was deprived by the late Lord of his posts to gratify a faction whose aim was to divest the family of the government. You may also let him know you are not ignorant of the laws made at that time and lately

[1] *Maryland Gazette*, 1758.

to deprive the Roman Catholics of their liberties, and to distress and vex them. That the memory of the favors conferred on your grandfather will always incline you to promote the interest of the Proprietary family where you can do it in honor and justice. But remember the ill treatment your grandfather met with after so long a series of services; remember the cruel usage of the Roman Catholics by the late and present Lord Baltimore, and let that so weigh with you as never to sacrifice your own or your country's interest to promote the interest or power of the Proprietary family. It is true they have it in their power to confer some places of profit and honor with acceptance, but as you cannot hold any of them as the laws stand, and supposing that impediment removed, as I would not wish you to hold any of them but upon honorable terms, I cannot think it will be worth your while to pay a court there, or show any other respect than such a one as is due to them as Lords of the country where your fortunes lie.[1]

Charles Carroll wrote to his son January 19th, 1760: "You must stay at least four years in the Temple. You cannot acquire perfect knowledge of the law in less, if in so short a time, and that knowledge is essential to you, as I shall leave you to dispute many things which the present injustice of the times will not permit me in prudence to contest."[2] Governor Sharpe wrote from "Belair," Colonel Tasker's place where he was visiting, on the 8th of July, 1760, and thanked his brother William for his civilities to certain Maryland gentlemen then in London, of whom Charles Carroll of Carollton was one.

[1] Family papers, Rev. Thomas Sim Lee. [2] *Ibid*.

They had been asked to dine at William Sharpe's. The Governor says:

"'Two of them, Mr. Key and Mr. Plater, were, before they went to England, members of the Lower House of Assembly, and as such opposed as far as in their power, those who endeavoured to render my administration uneasy. The first of them is at the Temple, where I believe he intends to reside three or four years. The other two gentlemen that dined with you were Roman Catholics. Mr. Carroll I never saw, he having been in France many years, and the other's errand home or in Europe was to carry his children to some college in Germany where he has a relation that is a Jesuit." [1]

Mrs. Elizabeth Brooke Carroll, the mother of Charles Carroll of Carrollton, died March 12th, 1761, after an illness of two years and eight months. It was at the time of the annoying lawsuit before referred to, between Mr. Carroll and his nephew. Clement Hill and Basil Waring, who were acting for the younger Carroll, professed to find Charles Carroll's accounts, as manager of the estate, at fault. The latter speaks feelingly of the action of these gentlemen, "when they knew his wife had long been and was dangerously ill of the sickness whereof she soon afterward died." And "from his then distressed situation [he] could not possibly enter into a particular examination of such long accounts," as they had sent him.

Very clever, and keenly sarcastic sometimes, are

[1] "Correspondence of Governor Sharpe," vol. ii., p. 443, Archives of Maryland.

the letters of Charles Carroll to Messrs. Hill and Waring, and he apparently completely refutes the charges made against him, of having overcharged his nephew and nieces in managing their estates. He in turn accuses Hill of taking a bribe from Charles Carroll of Duddington, his employer, of a pipe of Madeira wine, to make the award against the elder Carroll. Writing to Clement Hill, he says: "Well you are to have a pipe of wine; some men perhaps would chuse to drink water all their lives rather than accept a pipe of wine on such an occasion. Are they not fools? A Pipe of Wine is a Pipe of Wine, but honour is an empty-sounding thing like an empty Pipe."[1] An agreement had been made between Charles Carroll and his nephew, March 21, 1752, as to the division of the property in Baltimore County or Anne Arundel, inherited by them under the will of the Immigrant. Charles Carroll of Annapolis was to have the whole of "Doohoregan" (*sic*), 10,000 acres, and "Chance," 969 acres, and Charles Carroll, Junr., was to have "Clynmalyra," the "Vale of Jehosophat," "Ely O'Carroll" and "Litterlouna." Parts of two other tracts of land "both lately in Prince George's County, but now in Frederic," Charles Carroll of Annapolis agreed to convey to Charles Carroll, Jr., in order to give the latter "more than an equivalent for the exchange."[2]

The following correspondence passed between Charles Carroll and his son during the years 1760-1764. Charles Carroll, Sr., wrote:

[1] Carroll papers, Scharf Collection, Johns Hopkins University.

[2] Land Office, Deeds and Indentures.

July 14th, 1760. . . . My father directed I should go to the Temple, but he dying just as I had finished my Philosophy, my friends thought my presence necessary in Maryland, and that I might study the law here. I attempted it but to no purpose.

Maryland was granted to Cæcelius, Lord Baltimore, a Roman Catholic. All persons believing in Jesus Christ were by the charter promised the enjoyment not only of religious but of civil liberty, and were entitled to all the benefits of lucrative places, &c. It was chiefly planted and peopled in the beginning by Roman Catholics; many of them were men of better families than their Proprietary; these privileges were confirmed by a fundamental and perpetual law past here, and all sects continued in a peaceful enjoyment of these privileges until the Revolution, when a mob encouraged by the example set them by England, rebelled against the Lord Baltimore, stript him of his government, and his officers of their places. Then the crown assumed the government, the Toleration Act as I may call it, was repealed, and several acts to hinder us from a free exercise of our religion past. Benedict, Lord Baltimore, upon conforming to the Established Church in the year 1714, was restored to his government, and died the same year. His son Charles, Lord Baltimore, the present Lord's father, succeeded, and the people here making a handle of the Rebellion of 1715, enacted laws enjoining all the oaths taken in England to be taken here, and disqualified any person from voting for members to represent them in our Assembly who would not take these oaths, and many other scandalous and oppressive laws.

To these the Proprietary was not only mean enough to assent, but he deprived several Roman Catholics employed in the management of his private patrimony and

revenue, of their places, and among the rest your grandfather who was his Agent and Receiver General, etc., and had held the former places under three Lord Baltimores; this no act compelled him to do, and he did it to cajole an insolent rabble who were again aiming to deprive him of the government. From that time to the year 1751 we were unmolested, but then the Penal Laws of England were attempted to be introduced here and several bills to this and the like purposes past by our Lower House but rejected by the Upper House. At last in 1756, an act was passed by all the branches of the legislature here to double tax us, and to this law the present Proprietor had the meanness to assent, tho' he knew us innocent of the calumnies raised against us.

From what I have said I leave you to judge whether Maryland be a tolerable residence for a Roman Catholic. Were I younger I would certainly quit it; at my age (as I wrote you) a change of climate would certainly shorten my days, but I embrace every opportunity of getting rid of my real property, that if you please you may the sooner and with more ease and less loss leave it. However, my most valuable lands and slaves shall be kept to the last that you may chuse for yourself, and make yourself as happy as possible. It is my greatest study and concern to make you so. [1]

August 4th, 1760.

DEAR CHARLIE:

I received yours of the 13th of last April by Capt. Kelty, the 30th of last month. It gives us great pleasure to hear from yourself that you was well, and much better than you had been for some time past. Mr. Rozer [Rozier] went from my house yesterday. His

[1] Family papers, Rev. Thomas Sim Lee.

stay was so short that I had not time to ask him half enough about you. He promises me a longer visit soon. By him I learn that Mr. Calvert accidentally invited you to dine with Mr. Sharpe. I hear you have seen Mr. Jenifer which must have given you great satisfaction. Pray present my humble and sincere service to him, and to Mr. Crookshanks whenever you write to him.

We are well and present our love and blessing to you.

I am, dear Charley,
Your most affectionate father
CHAS. CARROLL.[1]

In a postscript to this letter the father quotes from some one of the Maryland kinsfolk, who had written home the following family gossip:

"My cousin Charles Carroll writes to me from London with all the indifference of a philosopher that he is very unconcerned about news; 'Madievitas,' says he 'is not that best?' What Mr. Carroll told you concerning the result of his voyage to Europe is conformable to what I understood from his son when I saw him last September, who told me his father had not succeeded at Paris. If it had been thought proper I should know the motive of his journey he would probably have taken the opportunity to tell me. But as he did not I suppose it would not be becoming in me to push my inquiries any further. I went from Liege to Ghent to meet my cousin Charley Carroll, on his way from Paris to London. Mr. Rozer will give you an account of the great improvement he has made in France and his elegant way of living in London."

[1] Family papers, Mrs. William C. Pennington.

A portion of the letter of Charles Carroll is torn here, and then it continues:

In yours of the 10th of April you say you are not acquainted with Mr. Bladen, and that you do not wish to be acquainted with him as he is a ga[mbler?] and that that is not your only reason for declining his acquaintance. This is mysterious, what reason have you? He was civil to me when [paper torn]. I have been long acquainted with him, his and my father were neighbors and friends. I am intimate with Mr. Tasker who married his sister, therefore if he makes the first advances be polite and civil [torn].

October 13th, 1760.

In mine of the 15th past I acquainted you that I had sent you by Mr. Brown 2 doz. of Cain spirits, but as Capt. Henrick importuned me very much for some of my old Madeira wine and would not be refused, I have sent the Cain spirits by him with an equal quantity of Madeira wine which you will find to be very good.

Pray do me the favour to see the inclosed be safely conveyed and write to Mons. Poison acquainting him that you will take care of any letters of his to Mrs. Manjan. Send him your address and present my compliments to him and his lady. You remember old Mr. Tasker and his son the Colonel, a very worthy young gentleman. The son is dangerously ill and may not recover. In that case many applications will be made for the place he enjoys, viz. the Secretary's office. Among the rest, I suppose Mr. Henry Darnall, my first cousin by the whole blood, will not be so wanting to himself as not to lay in his claim, and, in my opinion ought to succeed, if merit [will give it to him,] his being related to my Lord Baltimore and consequently to Mr.

Caecelius Calvert, his being descended from one of the best families of the country, from a family which early settled in this province, has made a very considerable figure in it, has held the chief posts in it, has been very serviceable to it, has been remarkably serviceable to the Proprietary family, has suffered for it, and whose attachment to it has been faithful, and so constant that no one act of theirs can give the leaṣt grounds to doubt it ; and yet considering the little notice that has been lately taken of him, I think it more than probable he will not succeed.

Though I am convinced it is Mr. Calvert's inclination to serve him, for as soon as he came into power, to the post of Attorney General which Mr. Darnall then held, he added that of Naval Officer of Patuxent, and ordered him to be made one of the Committee. This plainly showed Mr. Calvert thought him worthy of the highest offices here, and consequently made him enemies who despairing of preventing his rise, branded him with being Papist, popishly affected, disaffected to the government &c. &c., (for what will not malice, faction, ambition and envy prompt men to do) although he had long conformed to the Established Church and taken all the oaths. The Governor at the same time was influenced by these men, and I suppose represented Mr. Darnall to Mr. Calvert in such a light as to put a stop to his intentions to serve him, which with Mr. Calvert's fears of being himself accused of being popishly [paper torn]. Thus the family of the Proprietary have sacrificed us, abandoned their friends, courted their enemies by bestowing all favours on them ; a policy as weak and foolish as it is scandalous and ungrateful.

By yours I see you have had some discourse with Mr. Calvert about the Roman Catholics. This I took notice

of before, and some passages in mine to you of April 16th, 1759, February 9th, 1759, October 6th, 1759, January 1st, 1760, May 1st, 1760, July 14th, 1760, will show you that no dependence is to be had on peace for us here, since in the last instance of the act double taxing us, my Lord thought proper to assent to it, though he knew us to be innocent, and the charges brought against us to be false and scandalous. I would never have you be ungrateful or act dishonorably by opposing the Proprietary family merely for opposition sake (should you resolve to settle in Maryland against my opinion), but at the same time I think you will act foolishly if from principle you espouse the interest of a family who have plainly showed that they have no principle at all, or at least that gratitude and justice and honor have no influence on their principles.

This accompanys Mr. Brown. My house has been his home, and he well deserves the little civilities I showed him. He cannot be reconciled to Maryland notwithstanding your mother's banter. He will present my service to Mr. Perkins and his uncle Jo :, and the gentlemen in the house. I hope you will do the same, and to all my other friends in Paris, London, &c. God bless and grant you health.

I am, dear Charley, your most affectionate father

CHA. CARROLL.[1]

June 22nd, 1761.

DEAR CHARLEY :

You remember I got the Genealogy of our family translated from the Irish when I was at Paris. But I know not from which of the branches our family is descended, but I should think from the family of Daniel

[1] *Ibid.*

of Adamstown, but by the enclosed print you will see your grandfather stiles himself 2nd son of Daniel Carroll of Litterlouna. His elder brother was Antony, your cousin Antony's grandfather who I suppose was born about the year 1630 [1650 ?]. His son Michael was living a few years past and may be still living, and from him by the means of your cousin Antony, or from others you may trace our branch of the family back to 1500 or higher if you can, and in as distinct a manner as you can, and I desire you will do it.

I find by history as well as by the genealogy, that the country of Ely O'Carroll and Dirguill which comprehended most of the King's and Queen's countys, were the territories of the O'Carrolls and that they were princes thereof. You may as things are now circumstanced, and considering the low estate to which all the branches of our family are reduced by the struggles the ancient Irish maintained for the support of their religion, rights and properties, and which received their finishing stroke at the Revolution, think my inquiry an idle one, but I do not think so. If I am not right, the folly may be excused by its being a general one, and I hope for your own and my sake, you will gratify me in making as careful an inquiry as possible, and giving me what light you can on the subject. As soon as there is a peace, I will send you the Genealogy, in Irish and English, and I desire you will get our family in particular traced to its origin.

I am, my dear Charley, your most affectionate father

CH : CARROLL.

To CHARLES CARROLL, Esq : London.[1]

[*July, 1761.*] I again seriously recommend it to you to learn the art of bookkeeping ; half an hour a day spent

[1] Family papers, Rev. Thomas Sim Lee.

with a master will be sufficient. Learn arithmetic also methodically ; Surveying with a compass and chain will not take so much time as bookkeeping, and the knowledge of it and to cast up the contents of any survey is absolutely necessary to every landed gentleman here.[1]

Charles Carroll of Carrollton wrote to his father as follows:

1762. No degree at law can be obtained without being called to the bar. The being entered of the Temple is a necessary, previous, and preparatory step to that ceremony, which, though a ceremony, is an opening to all preferments in the law ; 't is attended with no other advantages, but many and great inconveniences ; the chiefest is the frequenting loose and disolute companions. For this reason I have resolved not to enter myself of the Temple—to what purpose ? Why should I expose myself to danger and be at needless though small expense without any view or hope of profit and advantage ?

August, 6th, 1762.

Dear Papa :

I wrote to you the 4th of last month. In that letter I started some difficulties in your lawsuit with Clifton which as that letter may have miscarried, I shall here repeat . . . The 16th October, 1752 you obliged Clifton to execute a bond to Ignatius Digges . . .

You desired me in one of your letters to trace our branch of the family back to 1500 by means of Cousin Antony or some one else. He is the only one to whom I could apply for information, or any other lights on this

[1] *Ibid.*

subject. I wrote to him and have received his answer which for your satisfaction I shall transcribe verbatim :

"I shall do all in my power to procure the information both you and your father desire, tho' it seems pretty certain I cannot do much considering how matters stand at this time. The last letter I had from Ireland gave an account of the death of Mr. Alexander Carroll, Cæsar's father, Mr. John Carroll the Colonel's brother, and Uncle Michael. I scarce know anyone that I can expect intelligence from. When I was a boy we had Dr. Keaton's Irish History in MS., in which I remember to have heard say that our genealogy was preserved, but that as well as other things disappeared before I left the kingdom. This I mention to let you see how hard it will be to get any satisfactory account of our extirpated family. It does not make to the present purpose, but it is proper to know that in Cambden's account of the county of Galloway mention is made of the chief of our name, who was defeated, with some other leaders, at the battle of Knoc-tee, [Knocktua, 1504?] by Gerald, Earl of Kildare, anno 1516. The same author in his account of the county of Tipperary tells us 't is bounded on the north with the territory of the O'Carrolls, which I am confident is to this day called Carroll's Isle, at least there is I know, a place so called in that part of the country." So far the letter . . .

I am, dear papa, your most affectionate and dutiful son, CH. CARROLL.[1]

January 7th, 1763.

DEAR PAPA :

Accept of my sincere wishes for your health and happiness during the course of this New Year and many

[1] *Ibid.*

succeeding years. This I hope will be the last I shall pass in absence from you. Tho' I am impatient to return, I readily submit in obedience to your will to remain here this one year more, and my impatience shall not hinder my application to the law.

The preliminary articles have received the sanction of Parliament. Warm debates it was imagined would ensue; the expectations of the public have however been deceived. Both Houses voted an address of thanks to his Majesty for obtaining a safe, advantageous, and honorable peace. The House of Commons divided, but the division 't is said, was only to show the opposition their weakness and unimportance. Mr. Pitt had prudently withdrawn before the division came on. His friends wish he had not appeared in the House that day, or at least had not spoke in it; his eloquence failed him, his mind partook of the infirmities of his body, the vehement, the impetuous Pitt was for once dull, tedious and insipid. He spoke as one cautious of offending, unwilling to approve, fearful of disapproving; the real sentiments of his mind seemed sacrificed to his interest, the dictates of his conscience or of his passion to his pension. Notwithstanding the great majority in favour of the present ministry and of their measures, there have been many and considerable resignations. The list may surprise you, particularly as several have resigned very lucrative employments. Would a concurrence with the leading party have procured a continuance of those employments in the former possessors the list of the suits would have been much shorter. The King of Prussia is endeavoring to force the Princes of the Empire to a neutrality. His forces have invaded and pillaged Franconia. Peace between that monarch and the Empress Queen seems still distant.

I shall now answer your letter of the 2nd of September, the last I have received. As I knew Captain Carroll had laid aside the thoughts of going to sea again, I gave myself no further concern about the mares. I intend bringing over a couple with me if they can be had at a reasonable rate. Would not a thorough-bred stallion be of greater advantage? I am creditably informed that there are people in Maryland and Virginia who make 200 or 300 pounds a year by their stallions. If this be true should mine arrive safe in the country he will amply repay me his purchase, passage, and other additional charges. I should be glad to know how much it would be proper to allow a groom for his taking care of the horses upon their passage, as also the wages of a gamekeeper, a footman's I suppose would nearly amount to the same. I don't imagine a good and trusty servant would transport himself to a foreign country for the same pay he would receive in his own. Mr. Dulany tells me that white servants seldom turn out well in Maryland, that they disagree with the negroes and will not eat with them. Would it be better for me to provide my servant or let him provide himself with clothes, and increase his wages proportionably? I should chuse the first and allow a livery suit and frock yearly.

I shall take particular care to lay in a good stock of Bristol water for my voyage, to get bookcases, and whatever else you recommend to me to bring over, as genteel clothes, horse furniture &c. I thank you for the present of the pistols, and for reminding me of the necessaries of the voyage. It is a further proof of that affection you have always borne me and on which I set the greatest value. My picture shall be drawn according to directions and sent by the fleet. Mr. Kay [Key?] proposes to return home very soon. I shall send by him the magazines,

newspapers, and three French pamphlets relative to the French Jesuits, as likewise the tryal of the Roman Catholics in Ireland, lately published and which will please you much. The guns Mr. Perkins sent you were made by the person who on Garvey's death succeeded him in his business. My bookseller tells me there are three volumes of Cambell's *Vitruvius Britannica;* if so you want the 1st and 3rd volumes. He fears it will be impossible to procure the odd volumes without buying the whole work. I have begun a Common-place book. But Bacon's new abridgment of the law comprised in four volumes folio which I have got is much better than any common place book I am able to make. The whole body of the law is there alphabetically digested under proper heads, with references to the year books, statutes and reports. The new edition of the statutes to which I have subscribed, will I hope, be finished before I leave England. Two or three volumes are already published.

If I had known how to procure a person to instruct me in the law, or where such a person was to be found, I should not have neglected doing it, but indeed such a one is not easily to be met with. The best way to become a good lawyer is to be under an attorney, not as his clerk, that would not be so proper for a gentleman, but to be in his office on the footing of a gentleman by allowing him a handsome gratification. I should then have known the practical part of the law, by which knowledge many difficulties would be removed which for want of it are now insurmountable. Most of our great lawyers have been brought up under attornies. The great Lord Hardwicke is a recent instance of that method's being the best for forming a sound lawyer. Nothing can be more absurd than the usual manner of young gentlemen's studying the law. They come from the University, take chambers in

the Temple, read Coke Little : whom they cannot possibly understand, frequent the courts whose practice they are ignorant of ; they are soon disgusted with the difficulties and dryness of the study, the law books are thrown aside, dissipation succeeds to study, immorality to virtue, one night plunges them in ruin, misery and disease.

I think I understand the theory of Italian bookkeeping and am able to follow that method if need be, in the transacting of my own business. I shall soon discharge my master. I have agreed with Mr. Cowley, professor of mathematics at Woolich [Woolwich] to teach me surveying. He is to have two guineas entrance money, a guinea per month, the month to consist of eight lessons. I begin the 18th instant. My accompitant master has brought me to raise a form of books, consisting of wastebook, journal and ledger, which I shall not fail to keep by me, as they will be of use hereafter. Mr. Crookshanks upon the dissolution was obliged to leave Paris. I have now no correspondent there. I remember Poison made some scruple about paying the postage of a letter from his relations, tho' he was only charged with the postage from England to France. His affection cannot be very great, or his necessities are very pressing. Mr. Kennedy returns soon to Paris. I shall write a line or two by him to Mr. Poison letting him know my address, and that I will forward his letters to Maryland.

I don't find any provision made or indemnification stipulated by the preliminaries for the poor neutrals. I am afraid they will be overlooked in the definitive treaty, and their redress sacrificed to more important interests. In looking over your list of English books I am surprised not to meet with Shakespeare's works. If I remember well you had them when I was in Maryland.

The negotiations are going on. There seems to be a

demurrer about the evacuation of Cleves and Guetores. The French want to give up those places to the Austrians, the English insist upon their being put into the hands of the King of Prussia. In my next I shall answer the letter in your own handwriting. I beg my compliments to cousin John Darnall and his sons, to Mr. Croxall and Harry Carroll, and to cousin Rachel Darnall.

I am, dear papa, your most dutiful and loving son

CH. CARROLL.

To CHARLES CARROLL, Esq.
of Annapolis, in Maryland.[1]

The remaining letters were written by the elder Carroll.

April 28th, 1763.

DEAR CHARLEY:

The 10th instant I received yours of the last November. Before that I had a cover from you to a letter directed to James Maccollum without a date. Maccollum is in Philadelphia extremely poor. He mortgaged his land and ran away from this Province in debt. I do not take the young man to be Maccollum's son. I think he had no son. An orphan boy lived with him who as I apprehend run away from him and I suppose to be the same who gave you the trouble to forward the letter.

I find you know Mr. Dulany pretty well. Dulany before he left Maryland sued me for his part of the money I received of Wright and Frazier. The suit hangs as he filed no declaration. If on his return he does not drop the action, and he and my other partners do not pay me the damages I have suffered by Mercer's

[1] Pennsylvania Historical Society.

suit I shall prefer a bill in chancery against them. Since my partners do not advise me to it, I do not think it worth my while singly to appeal against the decree of Clifton and Mercer. I do not intend to abide by Clement Hill and Basil Waring's award in favor of my nephew. I have prepared a bill in chancery against them and my nephew which is under the consideration of council and will be filed by next September, and I am not in the least afraid of not succeeding to set aside the award.

If by cousin Antony and by such relations in Ireland you cannot trace our family as I formerly directed, I know not what other directions to give you. You see by the Coat-of-arms I sent you that your grandfather stiles himself the second son of Daniel Carroll Esq. of Litterlouna in the King's county. May not cousin Anthony's mother, sisters, or some of Michael Carroll's children, or some of their relations, trace up our branch [torn]. You may perhaps hereafter wish more earnestly than you do at present that this had been done. I shall be glad to see the Irish History when completed.

Do not refer me to the accounts I may receive from others of the proceedings against the Jesuits; such accounts if sent may not be communicated to me. You are on the spot and may procure and transmit as perfect information as anyone. I doubt not you received Mr. Kennedy kindly and showed him proper civilities. If he transmits to you the papers he promised, he will lay an additional obligation on me, and if you should write to him present my respects to him.

It pleases me much to hear you are not disheartened with the difficulties you meet with in the study of the law, but I think you have been unfortunate in not meeting with anyone to direct you in the most profitable

method of reading it and instructing you in your difficulties. If you could not by friendship I think you might by money have procured such a one.

I have made your compliments as desired. I saw Captain Carroll a few days past. Cousin Jo : Darnall is now with me—they, Rachel Darnall and Mr. Croxall desire to be kindly remembered by you. My last to you bore date December 24th, 1762, in which I acknowledged the receipt of yours of August 6th, 1762. You see I keep my resolution of not writing oftener to you than you write to me. On the 13th instant my niece Eleanor Carroll the wife of Daniel Carroll died. I sincerely regret the loss of her, for she was in every respect a very worthy and valuable woman. My nephew who is not capable of doing a wise thing, has lately done the foolishest thing he ever did, for he has taken to himself a wife, the daughter of Mr. Henry Hill.

The 22nd instant I put in your horse *Nimble* for the four year old purse. I shall give you the event in the words of our Gazette : "Mr. Carroll's horse *Nimble* won the two first heats, but in running the third to save his distance only, the foolish rider endeavoured to get before and ran within one of the poles." *Nimble* will, I think, make a fine horse. He is allowed by all to have a very good bottom.

In February you will prepare for your voyage, and I shall expect you sometime in the May following. Do not come in a ship with fellows or servants, and it will be agreeable to you not to be crowded with cabin passengers ; two or three you will find to be company enough. Try to get a neat Captain and one who loves to live well. Be very inquisitive as to the age of the ship, and whether she be sound and strong, and well found. About this time twelvemonth, I shall be as impatient as you have

been for a long time past. I shall then long to see you, for I am, my dear Charley,

Your most affectionate father

CHARLES CARROLL.

P. S. I have been offered 100 pounds for *Nimble* and have refused it.

To CHARLES CARROLL, Esq., London.[1]

July 20th, 1763.

DEAR CHARLEY: . . . As to Mr. Whitten's letter about our genealogy, your grandfather's name was Charles, your great-grandfather's name you see by your arms was Daniel, my father's oldest brother's name was Antony, his eldest son's name Daniel who was your cousin Antony's father. I know nothing of my grandfather's or Uncle Antony's wives, or into what families they married. As to any expence do not begrudge what you think proper. Your grandfather left Europe and arrived in Maryland, October 1st, 1688, with the commission of Attorney General. He on the 19th of February, 1693 married Mary Darnall, the daughter of Col. Henry Darnall. I know not how my father came to style himself of Ahagurton and afterwards of Litterlouna. I was born April 2nd, 1702. Your mother was the daughter of Clement Brooke Esq: of Prince George's County; you was born September 8th, 1737. This is as much as I can furnish towards our pedigree, with the translation I obtained in Paris and which I will send you by the first safe hand.

Dear Charley, your most affectionate father

CHA: CARROLL.

[1] Family papers, Mrs. William C. Pennington.

September 20th, 1763.

DEAR CHARLEY: . . . It is very probable my grandfather Daniel Carroll was living in 1688; it is certain my uncle Antony was, and consequently Kean Carroll mentioned in Mr. Whitten's letter to Mr. Kennedy could not be an ancestor of ours in a direct line. You may get a fresh plate of our arms, styling yourself the only son of Charles Carroll Esq. of the city of Annapolis in the Province of Maryland, and greatgrandson of Daniel Carroll of Litterlouna Esq., in the King's County in the Kingdom of Ireland; and get at least 1000 stamps from the plate to be pasted in all the books. I shall send you by Kelty or Hanson the genealogy of our family as copied from the Irish original, and translated at Paris into English This may be copied and sent to Mr. Whitten. Those acquainted with heraldry may trace the several branches by this and make out the genealogies. If this cannot be done while you are in London, you may possibly get someone who can be trusted to see it done, but do not part with the book.[1]

January 9th 1764.

DEAR CHARLEY:

I yesterday evening received yours of the 11th of October past. . . . I hope Miss Baker may be endowed with all the good sense and good nature you say she has. Giving this for granted you have my full consent to pay your addresses to her. . . . I hereby again bind myself to comply with what I promised in the letter relating to the settlement to be made on your wife. And that Mr. Baker may be convinced I am capable of securing whatever fortune he may think proper to give

[1] Family papers, Rev. Thomas Sim Lee.

his daughter, I hereby give you a short abstract of the value of my estate :

Forty thousand acres of land, two seats alone containing each upwards of twelve thousand acres would now sell at 20s ster. per acre . . . £40,000,0-0.

One fifth of an Iron Work consisting of the most convenient furnace in America, with two forges built, a third erecting, with all convenient buildings ; 150 slaves, young and old, teams, carts &c., and thirty thousand acres of land belonging to the works, a very growing estate which produces to my fifth annually at least 400 pounds ster. at twenty-five years purchase . . £10,000,0,0.

Twenty lots in Annapolis with the houses thereon, £4,000,0,0.

Two hundred and eighty-five slaves on my different plantations at £30 ster., cash each, on an average, £8,550,0,0.

Cattle, horses, stock of all sorts on my plantations, with working tools, &c. . . . . £1000,0,0.

Silver household plate . . . . £600,0,0.

Debts outstanding at interest in 1762 when I balanced my books £24,230. 9s 7d

£88380. 9s 7d

You must not suppose my annual income to equal the interest of the value of my estate. Many of my lands are unimproved, but I compute I have a clear revenue of at least £1800 per annum and the value of my estate is annually increasing by the increase of the value of my lands.

Your most affectionate father,

CHA. CARROLL.[1]

[1] *Ibid.*

February 27th, 1764. I have yours of the 12th of November which I was in hopes before I opened it would have informed me whether you had Mr. Baker's consent to pay your addresses to his daughter.[1]

February 28th, 1764. This is only to inform you [I have] this day received yours of the 8th of December. If you like the lady I hope her merit may in a great measure make up for what her fortune may fall short of your expectations. . . . Could you not learn what Mr. Baker is supposed to be worth, where his estate lays, of what it consists, what sum you suppose he may or may not be able to give his daughter?

April 10th, 1764. . . . Mr. Baker's letter to you speaks him to be a man of sense and honor. . . . He promises at his death to make his daughter share equal his estate with his sons. I proposed upon your coming into Maryland to convey to you my Manor of Carrollton, 10000 acres, and the addition thereto called Addition to Carrollton 2700 acres, now producing annually £250 sterling and greatly improving as not nigh half of the 12700 acres is let, and what is let, is let to tenants at will, and my share of the Iron Works producing at least annually £400 ster. If this should be deemed insufficient settlement and gift to you, and security for the lady's jointure, I am willing to add on my death my Manor of Doohoregan, 10000 acres and 1425 acres called Chance adjacent thereto on which the bulk of my negroes are settled. . . . As you are my only child you will of course have all the residue of my estate on my death. . . . Your return to me I hope may be in the next fall.[2]

[1] *Ibid.* [2] *Ibid.*

The following attractive description of the youthful Charles Carroll of Carrollton, written by one of his tutors, was carefully preserved by his father, endorsed by him as here given:

"A character of my son: By Mr. Jenison his Master."

Tho' I am not in a disposition of writing letters, having lost this morning the finest young man, in every respect, that ever enter'd the House, you will perhaps, afterwards, have the pleasure of assuring yourself by experience that I have not exaggerated Charles Carroll's character in the foregoing lines. The Captain will be able to give you, I hope, a satisfactory account of him. 'T is very natural I should regret the loss of one who during the whole time he was under my care, never deserved, on any account, a single harsh word, and whose sweet temper rendered him equally agreeable both to equals and superiors, without ever making him degenerate into the mean character of a favorite which he always justly despised. His application to his Book and Devotions was constant and unchangeable, nor could we perceive the least difference in his conduct even after having read the news of his destination, which, you know, is very usual with young people here. This short character I owe to his deserts;—prejudice I am convinced, has no share in it, as I find the public voice confirms my sentiments. Both inclination and justice prompt me to say more, yet I rather chuse to leave the rest to Captain Carroll, to inform you of by word of mouth.

Underneath Charles Carroll wrote when he was looking over his father's papers, after his death: "I fear this letter was dictated by Mr. Jenison's partial-

ity to me. I never found till this day (27th June, 1782) that he ever wrote to my Father about me." [1] In his old age Charles Carroll of Carrollton was often heard to speak

"in strains of the highest eulogy, and with sentiments of the most devoted attachment, and expressions of the noblest gratitude, of his ancient preceptors. To them he attributed all that he knew, to their solicitude he referred all that he valued in his acquirements; and particularly that deep and hallowed conviction of religious truth, which was the ornament of his youth, and the solace of his old age. When anyone uttered a sentiment of astonishment how in his advanced years, he could rise so early and kneel so long—'these good practices,' he would answer with his high tone of cheerfulness, 'I learned under the Jesuits at the College of St. Omers.'" [2]

Of his indebtedness to the instruction at the College of Louis le Grand he gave testimony, recorded by the same authority. Here he

"grounded himself in the critical knowledge of the ancient languages; became master of all the intricacies and beauties of style, as well in his own tongue, as in the learned languages; stored his mind with the poets and historians, with the orators and philosophers of Greece and Rome, and acquired that general information, that universal knowledge which shed a charm around his conversation, and gave increased interest to the natural fascination of his manner." [3]

[1] Maryland Historical Society's "Centennial Memorial," p. 108.
[2] Oration of Rev. Constantine C. Pise, 1832.
[3] *Ibid.*

The years in Paris and in London, from twenty-one to twenty-eight, were passed as we have seen, his studies occupying him, but not to the exclusion of society. He had not neglected the accomplishments befitting the gentleman of fashion, learning to dance, to give him, as his father said, a "graceful and easy carriage." His portrait was to have been painted in Paris, "fifteen inches by twelve," when he was a boy of sixteen, and again in London ten years later, when Sir Joshua Reynolds is the artist. His schoolmates "Jacky," probably John Carroll, who was but two years his senior, and "Watty," Walter Hoxton, both of them his cousins, were Charles Carroll's friends and companions in the earlier years. There were always some "Marylandians" abroad among his associates. In London, dining with him at William Sharpe's, were George Plater afterwards prominent in the Revolution, Edmund Key who had Chambers at the Temple, 1759–1763, and was later Attorney-General of Maryland and member of the Assembly, dying in his early, brilliant manhood, and Henry Rozier, a half-brother of Mrs. Daniel Carroll of Duddington.

Other Maryland gentlemen whom Charles Carroll mentions in his letters are Lloyd Dulany who was at the Middle Temple, Edmund Jennings, son of the Attorney-General of Maryland, and one of the Jenifer family. But he doubtless met all the prominent men among his fellow colonists, whose business or pleasure brought them to London in these years; merchants and lawyers, most of them, John Hammond and Philip Lee, John Brice, Jr., and the Hon.

Daniel Dulany being among them. The latter gentleman, Charles Carroll of Carrollton's future antagonist in the polemical arena, with his eldest son, and his nephew, young Benjamin Ogle, sailed for London in the summer of 1761. Capt. Henry Carroll of *The Two Sisters*, who was possibly a relative of Charles Carroll of Annapolis, was going back and forth between London and Maryland in these years. His ship was owned by William Perkins, a London merchant, of whom mention is made in this correspondence. Captain Carroll's eldest son, Henry James Carroll, was living in 1767. Among the Americans studying at the Temple were the Marylanders Alexander Lawson and William Paca, the latter to become one of Charles Carroll's associates in the Revolution.

The letters of Charles Carroll, Sr., impressed upon his son the duty of remembering the wrongs suffered by those of his religion, in Maryland, and the injuries received by his family through the ingratitude and selfishness of the Proprietary. But if he meets Lord Baltimore or Mr. Cecelius Calvert, he is to show them a proper respect, while not leaving them in doubt as to his sentiments. The opportunity came for an interview with Cecelius Calvert, which young Carroll improved by talking with him on the subject of the Roman Catholics, though he does not record the conversation.

Henry Rozier and others who visited Charles Carroll in 1760, wrote home reports of "his elegant way of living," and of the philosophical indifference to current events which he affected.

With his father the "affectation" was put aside, and he appears wholly alert and practical; interested in public affairs and attending the sessions of Parliament, of which body at least two of his friends or acquaintances were to become members later: William Graves, a master in chancery, and Daines Barrington. The Mr. "Hussey" mentioned in a letter written in 1768, was probably the gentleman who was in Parliment at that time. Charles Carroll heard the great Mr. Pitt in 1763 and gives a graphic account of his impressions on seeing him, lamenting the deterioration which his genius had suffered since he drew a pension from the government. He made the acquaintance of Edmund Burke, the friend of America, and dined with him *en famille*.[1] He was busy, at his father's request, corresponding with Irish cousins, about the genealogy of the family; and he was buying books for the home library, which was evidently of respectable magnitude as he orders a thousand impressions of his father's armorial book-plate, to put in these volumes. But while reading Locke and Cicero, and keeping a "compendium," or common-place book, studying law, philosophy, and accounts, softer thoughts intrude upon his studies, and he falls in love. Then at one time he takes a trip to Margate, and later to Tunbridge Wells with Mr. Jennings, whom he describes as a "sensible, sober, discreet, well-behaved young man."[2] While at Ryegate, which he also visits, he is evidently, as we learn from subsequent reminiscences, under the

[1] Oration of Rev. Constantine C. Pise, 1832.

[2] *Appleton's Journal*, September 12, 1874.

spell of Miss Baker, the fair "Louisa" of whom we hear in the letters he writes on his return home.

He moved in a circle of friends of not a little consequence and fashion, some of whom he was wont to meet at the "Crown and Anchor," the famous Tavern on Arundel Street, and he does not forget them when he is back in Maryland, as his correspondence testifies. Dr. Johnson and Boswell were frequently to be seen in the Coffee Room of the "Crown and Anchor," and many other celebrities resorted there. It was burned down in 1854 but subsequently rebuilt and is now the Temple Club. But the time approached for Charles Carroll's long residence abroad to close.[1] He was to bring over thoroughbred horses, and a gamekeeper, and doubtless the newest London fashions in dress and equipage. That he had hoped to bring home an English bride to his Maryland manor, is evident. But for some reason his suit failed, and the romance came to an untimely end. The estate of "Carrollton" in Frederick County was to be settled upon him on his re-

[1] Charles Carroll of Carrollton brought home with him a valuable testimonial of his remarkable proficiency in his collegiate course, which is now to be seen framed and hanging on the wall of the library at "Doughoregan Manor." It is a list, in Latin, of the theses delivered by him at the close of his studies in Paris, and is ornamented by the Carroll crest, and what appears to be an allegorical group at the head of the engraving. The Rev. F. H. Richards, President of Georgetown College writes that these essays represented "a public defence covering the whole of philosophy, both mental and physical. This no doubt was a great honor, as he would not have been allowed to make a public defence had he not been thoroughly conversant with the subjects of his theses. I presume that he received a degree upon that occasion."

turn home, and he was to be known henceforward as Charles Carroll of Carrollton.

The name "Carrollton" was first given to a tract of land surveyed, February 10th, 1702, for James Carroll. It was part of a grant of 3500 acres in Spesutie Hundred, Baltimore County.[1] "Carrollton," in Frederick County, was patented by Charles, Daniel, Mary, and Eleanor Carroll, being the half of 20,000 acres granted them, April 19th, 1723. It had come to them from their father, and was then in Prince George's County.[2] Philemon Lloyd wrote, July 28th, 1722: "Mr. Charles Carroll purchased from the Indians a Lycence to take up his Tract of land in the ffork of Patowmeek and Monockkessy."[3] In the will of Daniel Carroll of Duddington, drawn up in 1734, after the death of Eleanor Carroll, he says: "And whereas a patent has passed to me and my brother and sisters for 10,000 acres of land at the mouth of Monnokasi, I hereby devise, release and confirm unto my sister Mary all my right, etc., to the tract according to the intention of my father's will."[4] Referring to the will of Charles Carroll the Immigrant, it will be seen that the manor is there referred to as "my tract of Land of twenty thousand acres intended to be laid out for me on Potomack," of which five thousand acres each were devised to his daughters.[5] The Hon. Charles Browning, nephew of Frederick, sixth and last Lord Baltimore, writing in 1821, gives the fol-

[1] Calvert Rent Rolls, Maryland Historical Society.
[2] Deed Books, Land Office, Annapolis.
[3] Calvert Papers, vol. ii., p. 39.
[4] Register of Wills Office, Annapolis.
[5] Appendix C.

lowing account of the patenting of "Carrollton Manor," as received at that time from the lips of Charles Carroll of Carrollton. Writing of Cecelius, Lord Baltimore, Mr. Browning says:

"It was also his Lordship's desire that his agents should purchase the native's interest in any lands, rather than take from them by force what they considered their right, and it appears the same conduct was strictly adhered to by their Lordships as they became proprietors in succession. A case of this nature occurred a very few years prior to the Revolution, and which was related to me by Charles Carroll of Carrollton Esq., whose ancestors having obtained from Charles, Lord Baltimore (father of the Hon. Mrs. Browning), a grant of 10,000 acres of land in Frederick County, with liberty to select the best land they could find; they first fixed on a spot beyond Frederick town but finding the land better on this side of Frederick, changed to the spot which the present Mr. Carroll now possesses on Monocacy River who went there and entered into a treaty with the Indians, and purchased their pretended right for £200, and for which he paid them in different merchandize such as suited them. The grant of this land first appears to have been made on the 10th of April, 1723, to the Carroll family, some of whom dying, there were different assignments from time to time, up to 1734; but I understand the land was not taken up till just before the Revolution, by the present Charles Carroll of Carrollton Esq., for his father; and the only money that appears to have been given for this land was a rent of £20 per annum, which the present Mr. Carroll got rid of by the act for the abolition of quit-rents, 1780." [1]

[1] Scharf's "History of Maryland," vol. ii., p. 137. "A Brief Explanation, etc.," Charles Browning, p 88, Baltimore, 1821.

CHAPTER III.

POLITICS AND MATRIMONY.

1765–1772.

THERE appeared the following notice of the arrival of Charles Carroll of Carrollton in America, in the Annapolis paper of Thursday, February 14th, 1765:

"Tuesday last arrived at his Father's House in Town, Charles Carroll Jun'r, Esq. (lately from London by way of Virginia) after about sixteen years absence from his Native Country at his Studies and on his Travels."[1]

He came home, at twenty-seven, an amiable, upright, accomplished young man, with the polish of European society, and the solid acquirements of studious culture. Debarred by his religion from the attainment of political honors, he anticipated only, in the present, the sweets of social life, among friends and kindred, in the affluent ease of his class, the slave-holding and manorial aristocracy of colonial Maryland. Charles Carroll had evidently not thought that it was to his interest and happiness to sell his

[1] *Maryland Gazette*, 1765.

CARROLL HOUSE AT ANNAPOLIS.

estates in the Province and expatriate himself, as his father would have persuaded him, a few years before. As yet he had had, personally, no experience of the "injustice of the times," and with youthful optimism he no doubt looked forward to a better era, without forecasting the wider liberties, civil and religious, that he would take a part in establishing. And a little later he wrote to his friend, Mr. Graves, who, it seems, was contemplating a visit to the colonies:

"As to travelers in America, besides that there is little worth a traveler's notice, there is the disadvantage attending a long journey—one's affairs will suffer greatly in his absence.

Our estates differ much from yours, the income is never certain. It depends upon the casual rise or fall in the price of tobacco. Notwithstanding these disadvantages, and some others more personal and applicable to myself, my views reach not beyond the narrow limits of this province;—so little is my ambition, and my bent to retirement so strong, that I am determined, leaving all ambitious pursuits, to confine myself to the improvement you recommend of my paternal acres. May I not enjoy as much happiness in this humble as in a more exalted station? Who is so happy as an independent man? and who is more independent than a private gentleman possessed of a clear estate, and moderate in his desires?"[1]

But already America had entered into the penumbra of the political eclipse from which the colonies were to emerge as sovereign states in 1776. The Stamp Act was the supreme question of the hour, and Charles Carroll in his retirement could not escape

[1] Family papers: *Appleton's Journal*, Sept. 19, 1874, p. 353.

the influence of the agitation and ferment surrounding him. He caught the contagion of patriotic enthusiasm, responding warmly to the appeals of the local leaders. In the summer of 1765, Zachariah Hood, a merchant of Annapolis, was given the appointment of stamp distributor in Maryland. But on his arrival he was not permitted to land his vessel, and had to effect his purpose later, unseen by the angry crowd which had opposed him. He was hung in effigy at Annapolis, Baltimore, Frederick, and Elk Ridge. The latter place was near Doughoregan Manor. The prominent men of Annapolis, with all others in the neighborhood in sympathy with them, met together on the 27th of August, and calling themselves "Assertors of British American privileges," stirred up resistance to the execution of the obnoxious law. In all probability, Charles Carroll of Carrollton was one of those who were present.

The Maryland Assembly met, in September, and appointed delegates to the "Stamp Act Congress," as it has been called, which met in October. Col. George Mercer of Virginia, then living in London, brought over some of the stamps for Maryland, with those for Virginia, in November, but he found the sentiment against admitting them too strong to be withstood, and prudently forebore to carry out his agreement. The "Sons of Liberty," an association which had sprung up in various parts of the country, had its representatives in Maryland, and those of that province met in Baltimore, February, 1766, and signified their determination to put an end to the stagnation of business which had

ensued from the fears of the crown officers to act without stamped paper. A full meeting later of all the members from the counties accomplished that object. It was resolved also to wear home-spun, and to inaugurate a non-importation policy.

In all these measures, it is evident, Charles Carroll of Carrollton was in concert with Samuel Chase, William Paca, and the other Maryland patriots. Chase and Paca were of the Anne Arundel Committee of the "Sons of Liberty." Charles Carroll's correspondence at this time, with his friends in London, depicts vividly the condition of affairs. To one of them, probably Edmund Jennings, he wrote, September 5th, 1765, and subsequently, as follows:

"Things are in pretty much the same situation as when you left us. The Stamp Act continues to make as much noise as ever. The spirit of discontent in the people rather continues to increase than diminish.

The stamp-master of Boston has been obliged to resign his office; the house building here for the reception of the stamps has been leveled to the ground. Our stamp-master, Zachariah Hood, is hated and despised by everyone; he has been whipped, pilloried and hanged in effigy, in this place [Annapolis], Baltimore town, and at the landing [Elk Ridge]; the people seem determined not to buy his goods. His last dying speech has its humor: it contains, as most dying speeches, an account of his birth, parentage, and education."

"*September 28, 1765:* Should the Stamp Act be enforced by tyrannical soldiery, our property, our liberty, our very existence, is at an end. And you may be per-

suaded that nothing but an armed force can execute the worst of laws. Thus you see how necessary it is, at this critical juncture, to have cool, dispassionate, condescending men at the helm. It is sometimes with governments as with private men ; they obstinately persevere from resentment and passion in measures which unbiased reason would condemn."

" *September 30, 1675 :* Nothing can overcome the aversion of the people to the Stamp Act, and [overcome] their love of liberty, but an armed force ; and that, too, not a contemptible one. To judge from the number of the colonists, and the spirit they have already shown, and which I hope to God will not fail them on the day of trial, twenty thousand men would find it difficult to enforce the law ; or more properly speaking to ram it down our throats. Can England, surrounded with powerful enemies, distracted with intestine factions, encumbered, and almost staggering under the immense load of debt—little short of one hundred and fifty million pounds—send out such a powerful army to deprive a free people, their fellow-subjects of their rights and liberties? If ministerial influence and parliamentary corruption should not blush at such a detestable scheme ; if Parliament, blind to their own interest, and forgetting that they are the guardians of sacred liberty, and of our happy constitution, should have the impudence to avow this open infraction of both, will England, her commerce annihilated by the oppression of America, be able to maintain those troops ?

The absurdities of such an attempt are so glaring, the evil consequences so obvious, that unless a general frenzy has seized the whole English nation, I cannot suppose that a measure will be adopted which will inevitably end in the ruin of the English Empire. At a moderate com-

putation, the inhabitants of these continental colonies amount to two million, five hundred thousand; and in twenty years time as propagation increases in proportion to the means of an easy subsistence, the number will be doubled. Reflect on the immense ocean that divides this fruitful country from the island whose power, as its territory is circumscribed, has already arrived at its zenith, while the power of this continent is growing daily, and in time will be as unbounded as our dominions are extensive. The rapid increase of manufactures surpasses the expectations of the most sanguine American. Even the arts and sciences commence to flourish, and in these, as in arms, the day, I hope, will come when America will be superior to all the world. Without prejudice or partiality, I do not believe the universe can show a finer country—so luxuriant in its soil; so happy in a healthy climate; so extensively watered by so many navigable rivers, and producing within itself not only all the necessaries, but even most of the superfluities of life.

A great many gentlemen have already appeared in homespun, and I hope soon to make one of the number. Many imagine the Stamp Act will be suspended for a time, till some expedient may be hit on to reconcile the exemption we claim from a parliamentary taxation, with the right and power asserted of late by the Parliament. If the act be suspended until such an expedient can be found, it will be suspended for all eternity."[1]

In a letter, dated August 12, 1766, which is thought to have been written to William Graves, Charles Carroll says:

"The colonies are far from aiming at independence. If, indeed, slavery and dependency be convertible terms

[1] *Ibid.*, September 12, 1874. p. 323.

—and if your government should not make the proper distinction, and should treat us, not as culprits composing a part of the same society, and entitled to the same privileges with the rest, but should look upon us as slaves, and should use us as such, I believe every American would disclaim that sort of dependency."[1]

The disappointment in courtship, which had been a part of Charles Carroll's London experience, had disinclined him to thoughts of matrimony, as he believed, on his return to Maryland. But the wise bachelor philosophy to which he gives utterance in the fall of 1765, had all been dissipated in the space of a few months, and in the spring of 1766, we find him again under the influence of the softer passion. He was in love with his cousin Rachel Cooke, and she returned his affection. This lady was descended, like himself, from Jane Lowe, Lady Baltimore. The wedding was to have taken place the 8th of July, 1766, but the lover was seized with a fever in June, which lasted for so long a time that the ceremony was postponed until early in November. He then writes over to London for gifts to be purchased for his bride, and he asks a friend to buy him a "curricle," in view of the coming event. But now it was the lady who fell sick, and in the very month she was to have been married, Charles Carroll was shocked and stunned by her death. His grief for her loss seems to have been poignant, if not long-lived. But at thirty the spirit is elastic, and a bruised heart is soon healed. Another fair cousin was at

[1] *Ibid.*

hand to offer consolation, and to this lady, Mary Darnall, Charles Carroll of Carrollton was married, June 5th, 1768. She and her mother had been living in his father's family for some years, which accounts for the brief courtship. The following letters to his English friends and others, tell the story of these several vicissitudes of feeling, and of the final happy consummation.

15th September, 1765.

Dear Graves:

The gentleman who informed you of my Father's having presented me with £40,000 sterling, was misinformed, or was willing to impose on you a piece of news of his own coinage—not only 40,000 pounds but the whole of my Father's estate is at my disposal. We are, and are likely to continue on the best of terms: never Father and Son were [on] better.

Matrimony is at present but little the subject of my thoughts; indeed I am uncertain whether I shall ever marry, unless I meet with a lady of good sense and good nature. . . .

Affectionately yours
Ch. Carroll of Carrollton.[1]

21st November, 1765.

Dear Bradshaw:

. . . As to your humble servant, he is much as you left him—as thin, as easy, and as sincere and unalterable in his friendship; still a bachelor and likely to remain so—not from any fixed purpose, or former disappointment, but merely from indifference. At our years the passions grow cooler, and our reason generally operates

[1] Family papers, Rev. Thomas Sim Lee.

the stronger in proportion to the abatement of youthful heat. A man of common sense at twenty [thirty?] is well convinced, or ought to be, of the emptiness of that passion (which exists nowhere but in romance). If he marries, he will marry from affection, from esteem, and from a sense of merit in his wife. . . . It is indeed a misfortune too common, that the generality of women neglect to improve their understandings—their whole time being taken up in emptiness, in adorning and setting off to advantage their charms. They do not reflect that these, in the eyes of the world have but a few years to last, and in the eyes of a husband, but a few months; and good sense, good nature, improved by reflection, by reading, are the only means to hold the affection of a husband, and to perpetuate that empire which beauty first established. What more dreadful, what more irksome, than to be linked for life to a dull, insipid companion, whose whole conversation is confined to the color and fashion of her dress—the empty chit-chat of the tea-table? Nor would I be understood to insinuate that the domestic cares, and charge of a family, are beneath the notice and dignity of a wife, for due attention to the duties that fall to the mistress of a family, far from being derogatory, would do honor to a lady in the highest station in life.[1]

May 29, 1766.

DEAR DANIEL:

Before you receive this, I shall probably be married to Miss Cooke. . . .

[1] Family papers: *Appleton's Journal*, September 19, 1874, p. 354.

22nd July, 1766.

DEAR CHRISTOPHER:

I was to have been married the 8th inst., but a sharp fever seized me about the 20th of last month. It continued without intermission for thirteen days, and from that time, though with several intermissions, it has hung upon me till a few days ago.

August 26th.

DEAR BRADSHAW:

I was to have been married the 8th of last month to an amiable young lady, but was taken ill with fever in June. If I continue thus recruiting I hope to be married early in November.[1]

17th September, 1766.

DEAR CHRISTOPHER:

About the 10th next November I shall be initiated in the mysterious rites, as Milton calls them of Hymen. A greater commendation I cannot make of the young lady than by pronouncing her no ways inferior to Louisa, and that the sweetness of her temper and other amiable qualities have contributed to efface an impression which similar qualities had made on a heart too susceptible perhaps, of tender feelings, and on a mind not sufficiently strengthened by philosophy to resist those and the united power of good sense and beauty.[2]

October 6, 1766.

DEAR MADAM:

I wrote to your nephew the 17th of last month and in that letter acquainted him with my intended marriage which I believe if nothing unforseen happens will take

[1] Family papers, Rev. Thomas Sim Lee.

[2] Family papers, Mrs. William C. Pennington.

place the first week in November. You have no doubt some curiosity to know what sort of choice I have made. Were I not afraid of doing injustice to the lady, I would endeavour to present you with her picture, but I have been so accustomed to draw ugly likenesses that I fear I shall make but a bad hand at a handsome one. This much I will say, and this is her chiefest commendation, she has good sense, a temper equally sweet as yours, and a modesty that would charm a rake.

[And after a few jests about women which he fears his correspondent might interpret as "a satyr upon your sex" the letter continues.]

I assure you I have been more sparing in my reflections, and in pronouncing judgment on that amiable part of mankind since the opinion a charitable lady of your acquaintance was pleased to form of me behind my back, from little inadvertencies, and that opinion was delivered seriously and deliberately before a sister whom at that time I would have given the world to entertain better of me. Well then, since the subject has somehow unaccountably led me on to the lady, I may mention her name. How is Louisa? There was once more music in that name than in the sweetest lines of Pope; but now I can pronounce it as indifferently as Nancy, Betsy, or any other common name. If I ask a few questions I hope you will not think I am not quite as indifferent as I pretend to be. But I protest it is mere curiosity, or mere good will, that prompts me to inquire after her. Is she still single? Does she intend to alter her state or to remain single? If she thinks of matrimony, my only wish is that she may meet with a man deserving of her.

I write to your nephew by this opportunity. Pray

remember me to your brother for whom as for yourself I shall ever retain an unfeigned esteem and sincere regard.

The first part of this letter contains a request to his correspondent to execute some commissions for the writer's intended bride, Brussels lace, a necklace, etc. In a postscript Charles Carroll adds:

"I have sent the measure of the lady's stays, and of the skirts of her robes. I hope you will excuse any impropriety in my expressions, for I confess an utter ignorance in these matters. The silk marked is for a young lady who lives with us."[1]

This young lady so casually mentioned "who lives with us," was no doubt Mary Darnall. The wedding dress intended for Miss Cooke was brought over, and remains to-day an heirloom in her family. It was worn "in 1876, more than a hundred years later [than the date of the above letter], at one of the Martha Washington parties, the fabric almost untarnished by time."[2]

November 27th, 1766; DEAR GRAVES: The young lady to whom I was to have been married died the 25th instant. She was acknowledged by all her acquaintance to be a most sweet-tempered, amiable and virtuous girl. I loved her most sincerely and had all the reason to believe I was as sincerely loved. Judge of my loss, and by it of what I now feel.[3]

[1] *Ibid.*

[2] *Magazine of American History*, 1878, vol. ii., p. 100.

[3] Family papers, Rev. Thomas Sim Lee.

8th March, 1767.

DEAR CHRISTOPHER:

The lady's name to whom I was to have been married was Cooke, a cousin of mine, but not the same I spoke of to your Aunt. She possessed every qualification requisite to make me happy, virtue, prudence, and consequently good sense; a cheerful and even temper, an agreeable person. Her death was the greatest shock to me as it was not apprehended. She had been ill four or five weeks, but the doctor either knew not or dissembled her danger. During her illness I often visited her, her father's house not being more than twenty-two or twenty-three miles from ours. The last visit I paid her was on the 25th of November. On that day in about three hours after my arrival she died. She retained her senses almost to the last; perfectly resigned to her fate she seemed to feel much more for us than for herself. I make no doubt if virtue is to be recompensed in a future state, she now enjoys perfect happiness. What must I not have felt during this distressful scene, of which I was not only an eye-witness, but the principal sharer.

Your heart is too tender not to partake even at this distance of your friend's grief, and to sympathize with him. All that now remains of my unhappy affection is a pleasing, melancholy recollection, of having loved and being loved by a most deserving woman.

I really know not how it is, but either from lowness of spirits, or from a puny, weakly frame, perhaps from both, as reciprocally the cause and effect, I am grown quite indifferent to everything in this world, even to life itself. I assure you—I speak without affectation, and with due submission to the will of God—I care not how soon a period is put to this dull tameness of existence here, but, I am sensible, to merit immortal happiness, we must pa-

tiently submit, I was going to say cheerfully, but I have not virtue enough to do that—to the crosses and trials of this life, nay we must drink up the very dregs of it. I am now come to the dregs of mine. Is it then surprising that I should wish the bitter potion down? Do not be startled at this morality. Virtue, believe me, is the only foundation of happiness in this life; there can be no other foundation for happiness in any other but virtue —reason and revelation both teach this; constant experience, too, confirms it to be true—else whence that perpetual anxiety, those endless, restless desires in men possessed of all worldly advantages—dignities, power, wealth, strength, beauty, health, wisdom? Even these favorites of nature are as craving, as uncontented, as her most destitute, impoverished children! Why? These men want virtue; their desires are insatiable because not fixed on the only object capable of satisfying man, and intended to satisfy him, by rendering him completely happy—infinitude, and to the enjoyment of this virtue only can entitle us.

The mentioning Ryegate has recalled a thousand pleasing ideas to my mind. How many happy hours have I past in that pretty spot, with an innocent, cheerful and contented family, the peace of which the worst of tempers could not disturb. Excuse this reflection on an Aunt who hated the best of sisters. If possible my regard for your Aunt Esther, that amiable woman, is increased. My poor dear Miss Cooke often put me in mind of her, there was a striking likeness in their temper and manner.[1]

[1] Family papers, Mrs. W. C. Pennington: Partly published in *Appleton*, Sept. 19, 1874.

9th March, 1767.

DEAR JENNINGS:

I received a few days ago your letter of 18th November. You must have received before this comes to hand the news of Miss Cooke's death. From the sweetness of her temper, her virtue and good sense, and from our mutual affection, I had the strongest assurances of happiness in the married state. It has pleased God to teach me by this severe visitation that no happiness but what results from virtue is permanent and secure.[1]

Long years after the death of Charles Carroll of Carrollton, there were found in a secret drawer of his writing desk a miniature of Rachel Cooke and a lock of her hair.

But now the new love appears on the scene.

August 13, 1767.

DEAR JENNINGS:

Perhaps before you receive this I shall be married. I have been so successful as to gain the affections of a young lady endowed with every quality to make me happy in the married state. Virtue, good sense, good temper. These too receive no small lustre from her person, which the partiality of a lover does not represent to me more agreeable than what it really is. She really is a sweet-tempered, charming, neat girl—a little too young for me I confess, but especially as I am of weak and puny constitution—in a poor state of health, but in hopes of better. "Hope springs eternal in the human breast."[2]

27th August, 1767.

DEAR GRAVES:

I have yours of the 4th of last February now before me. I am quite of your opinion. I adopt all your argu-

[1] Family papers, Mrs. William C. Pennington. [2] *Ibid.*

ments in favor of the matrimonial state; after such a declaration you will no doubt expect to hear that I entertain fresh thoughts of matrimony. I not only do so, but the thing is already concluded on and the ceremony will be performed some time in September or October next. The lady's name is Darnall, of a good family without any money; and in every other respect she is such as you would recommend to your friend, cheerful, sweet-tempered, virtuous and sensible.[1]

September 10, 1767.

To Mr. Bird, Junr.

Dear Sir:

My last to you was dated the 8th of last March. Your silence is the more surprising as I not only expected letters from you, but to receive some things which I took the liberty of troubling your Aunt to buy for my cousin Miss Mollie Darnall, and who is greatly disappointed at not receiving them.

Immediately on the death of Miss Cooke, my father wrote to your Aunt countermanding what I had desired her to purchase for that lady.[2]

October 17th, 1767.

To Mr. William Brown:

Miss Darnall has taken the liberty to request Mrs. Brown to purchase some articles in the enclosed invoice, and I doubt not but Mrs. Brown will be so good-natured as to execute the commission to Miss Darnall's satisfaction. I compute her invoice will amount to 150 or 160 pounds. Perhaps it may amount to £200. On this head I can say no more than this, let the things be bought at the best rate, but at the same time handsome and genteel.[3]

[1] *Ibid.* [2] *Ibid.* [3] *Ibid.*

November 7, 1767—Dear Graves: My last to you was dated 27th August. . . I informed you that I expected to be married this last October to Miss Darnall, but the frequent prorogations of our Assembly which will be dissolved, of course, next month, have hitherto prevented our marriage from taking place. A new Assembly will be chosen this winter which will meet early next spring and then I propose getting a law passed to impower Miss Darnall who is under age, to consent to a settlement in bar of dower. If I succeed in my application to the House for this purpose, I imagine I shall be married some time next May.

Pray what are your sentiments of the late expulsion of Jesuits from Spain? General accusations against a body of men, of great crimes and misdemeanours, without particular proof, are to me strong confirmation of the falsity of those accusations. It is my private opinion, that the Roman Catholic princes are desirous of rooting out the regular clergy in their dominions, not only with a view of seizing their estates, and enriching with their plunder a few court favorites, but to ease their people of a dead weight and themselves of a political incumbrance.[1]

January 16, 1768, Dear Graves: I hope you have received my last letter of the 7th November. By that you will learn that my marriage with Miss Darnall was put off till the next spring, in order to obtain an Act of Assembly. . . . Thus you see if the settlement cannot be securely made without an Act to give it a legal force, I may wait two years longer, that is till the young lady comes of age. She will be 19 years old the 19th of next March. I leave you to judge how disagreeable such a delay must be in my situation. I

[1] *Ibid.*

wish you would apply to one or two able lawyers for their opinion upon this point. Inclosed is an order in blank upon Messrs Perkins & Co. for what money it may be necessary to give to the lawyers for their advice. . . . Pray do not lose any time. By the laws or the usage of this Province, widows are entitled to one-third of the personal estate absolutely and negroes are accounted as part of the latter.

The bulk of my estate consists of negroes and money. We have near £30,000 at interest and above 300 negroes, worth at least in average £30 sterling each. In case of my death a very large proportion of my estate would probably be carried into another family, to the prejudice of my own children or of the heir at law.

The young lady to whom I am to give my hand and who already has my heart, altho' blessed in every good quality, has not been favored by fortune in respect to money, and this among many others is a strong instance of the partiality and blindness of that goddess ; or that riches are not always bestowed upon the deserving. I mention not this circumstance as an objection to the young lady. I prefer her thus unprovided to all the women I have ever seen—even to Louisa—but only as a reason inducing the necessity of a settlement, and strongly justifying it. I am willing and desirous that all my future actions should stand the test of those two severe judges—Reason and Justice.[1]

The marriage contract was drawn up on Saturday, the 4th of June, 1768, and is styled an "Indenture" between Charles Carroll of Carrollton, of the first part, Henry Darnall, Jr., of the second part, Rachel Darnall, wife of said Henry, of the third part, Mary

[1] *Ibid.*

Darnall, daughter of said Henry and Rachel, of the fourth part, and Robert Darnall, uncle to said Mary, of the fifth part. The witnesses to the signatures of Henry Darnall, Jr., and Robert Darnall are William Digges, Jr., and Joseph Digges. The witnesses to the signatures of Charles Carroll of Carrollton and of Rachel Darnall and Mary Darnall, are Charles Digges, Ann Darnall, and Mildred Hanson.[1] The marriage took place the following day, and is thus noticed in the Annapolis paper of the 9th of June.

"On Sunday evening was married at his Father's House in this city, Charles Carroll Jr. Esq :, to Miss Mary Darnall, an agreeable young Lady endowed with every accomplishment necessary to render the connubial state happy."[2]

The bride, as the daughter of Henry Darnall of Prince George's County and Rachel Brooke, was related to the bridegroom through both sides of his house.

The Hon. Daines Barrington, Charles Carroll of Carrollton's English friend, to whom the following letter was written, belonged to a distinguished band of brothers, one of whom became a bishop, one an admiral, and one a major-general, and two of them were writers and statesmen. Daines Barrington, M.P., published his quarto volume, "Observations upon the more Ancient Statutes, from Magna Charta to James I.," in 1766, and it was republished the following year, when Mr. Graves, who seems to have visited America at this time, brought over a copy from the author as a present to Charles Carroll.

[1] Family papers.

[2] *Maryland Gazette*, 1768.

The latter evidently placed a high value upon the book, for its stores of legal learning, and its valuable emendations, and he quoted from it more than once in his controversy with Daniel Dulany a few years later.

August 19, 1767.

To the Hon. Daines Barrington :

I received from Mr. Graves your agreeable, judicious, and entertaining observations on the statutes. The least I can do for the pleasure they have afforded me is to acknowledge it, and thank you. What, too, not a little enhances the value of the present, independent of its intrinsic worth, is your remembrance of me ; if to be praised by a great man is the highest praise, to be remembered by one is not less flattering. As a token of friendship, your book cannot but be pleasing to me ; the perusal of it has afforded me no small amusement and instruction. Indeed I could not have thought so dry a subject capable of such embellishments. You have thrown a new light on the old statutes by making them expositions of the manners of our ancestors. Perhaps the only fault in the book is the quotation of so many different languages ; few of the readers, I believe, will understand all the languages you have quoted ; at least I wish you had Englished many of them for such ignorant ones as myself.

Graves tells me the bear-hams were spoilt, they were perfectly sound when they left this place. I have endeavored to procure you a taste of American venison, but hitherto without success ; but I hope to get some venison time enough to send in the spring.

I am, sir, etc.

Charles Carroll of Carrollton.[1]

[1] Family papers : *Appleton's Journal*, September 19, 1874, p. 354.

At this time appeared, 1767–1768, John Dickinson's Letters of the "Pennsylvania Farmer," which were so greatly admired by the patriots of America. The first one was copied into the *Maryland Gazette*, December 17, 1767. Charles Carroll read them all with avidity, doubtless. And when writing his "Letters of the First Citizen," he called special attention to the eleventh one of these papers, which he recommends to his countrymen for its wisdom and patriotism.

William Cooke, a brother of Charles Carroll's ill-fated ladylove, went to London in the spring of 1768, to study law at the Temple, and carried with him a letter from Carroll to his friend Graves, who was to introduce young Cooke to some of the pleasant set whose acquaintance he had enjoyed. They were "learned and sensible men" who were wont to meet at the "Crown and Anchor," we are told. Charles Carroll's good opinion of his cousin was well founded, for making the most of his student years in England, he became subsequently one of Maryland's most distinguished jurists.

April 16, 1768.

DEAR GRAVES:

This will be delivered to you by Mr. William Cooke, a relation of mine for whom I have a sincere friendship and esteem, and whom upon acquaintance I make no doubt you will find worthy of yours.

It was this gentleman's sister I was to have espoused. *Sed Dis aliter visam.*

Mr. Cooke intends to remain in London two or three years in order to perfect himself in the law by a diligent

application to that science and constant attendance on the courts, and by such further helps as his residence in the Temple or some other Inn of Court may afford him. An acquaintance with and the conversation of some good lawyers will I apprehend be particularly useful to him not only by their pointing out a proper method and proper books, but by resolving such difficulties as may occur in the course of his reading. It is with this view chiefly that I make bold to recommend him to you for advice in the profession which he has embraced, and in which you have acquired a considerable degree of knowledge. Any assistance you may lend him in this way, or any services you may please to confer on him by introducing him to good acquaintances he will gratefully acknowledge, and I shall deem as conferred upon myself. His finances are too scanty to permit him to keep constantly the same agreeable company with which you brought me acquainted. However, by a well-regulated economy at other times he may now and then afford to spend his half guinea, if that expense should be necessary to procure him the acquaintance and countenance of learned and sensible men.

Mr. Cooke has for some years past applied himself to the study of the law, and I believe he is pretty well acquainted in the practice of the court and judicial proceedings. For any further particulars relating to this gentleman I must refer you to himself. I have sent by him three venison hams which you will be pleased to accept of for your use and the gentlemen at the Crown and Anchor to whom, particularly to Mr. Barrington and Hussey I desire to be remembered.

I hope you have received my several letters of the 16th and 22nd January and 7th of February, and complied with what I have therein requested of you. Not that I

think the opinion whatever it may be, will be necessary for the regulation of my conduct. Our Assembly will set the 19th of May when I intend to apply for a bill to dispense with the disability of nonage. Such applications are, I believe, not uncommon. In the present instance it is just and reasonable, and can be attended with no inconvenience to the public, consequently I have solid grounds to hope for success." [1]

Charles Carroll of Carrollton, besides his Maryland friends, and those made in his long sojourn in Europe, was more or less intimate with some of his Virginia neighbors. Robert Carter of "Nomini Hall" in Westmoreland, a member of the Virginia Council, he came to know in business as well as socially, as they were co-partners in the ownership of the Baltimore Iron Works, and met frequently, besides keeping up some correspondence on the concerns of the company. Another prominent Virginian with whom Charles Carroll was intimate, and whom he may have met in England, was Philip Ludwell of "Greenspring," who died in London, March 25th, 1767, leaving three daughters, co-heiresses, one of whom married William Lee. In his will, Philip Ludwell made a bequest of some books to Charles Carroll, and the latter wrote the following letter to the executors of Ludwell's estate, Richard Corbin and Robert Carter Nicholas:

8th November, 1767.

GENTLEMEN:

I have made choice agreeable to the bequest of my worthy friend, Colonel Ludwell, of the books on the op-

[1] Family papers, Mrs. William C. Pennington.

posite side of this. The presses and shelves are referred to, that you may the more easily discover at one view what books I have chosen. A very sincere friendship subsisted between us. The legacy he hath bequeathed to me, and particularly the manner in which it is expressed, is a proof of that friendship ; and I have accepted of this token of my friend's remembrance, more from this motive, than from any real want of the books I have selected from his collection for my own use. I desire the books may be safely packed up and sent by water to Annapolis, directed to Charles Carroll of Carrollton. I hope you will excuse the trouble you are put to on my account, as I would willingly undertake the same to serve you—I am,

Gentlemen, your most obedient humble servant,
CH. CARROLL OF CARROLLTON.

P. S.—If it should be too troublesome, or it should not lay in your way to look out for a proper opportunity of sending the books to Annapolis, you will be pleased to commit them to the care of Sir Peyton Beckwith, with whom I am well acquainted, who will take the proper care of them.

To The Hon. Richard Corbin, Esq.,
and Robert Carter Nicholas, Esq.,
at Williamsburg, Virginia."[1]

The half sheet containing the names of the books has been lost.

Charles Carroll's acquaintance with George Washington first began, probably, through his father's connection with the Clifton estate, and the lawsuit growing out of that business, to which reference has been made in the Carroll correspondence. Charles

[1] MS. Letter, Nathaniel Paine, Worcester, Mass.

Carroll, Senior, held a mortgage on the plantation of William Clifton, in Fairfax County, Virginia, which was sold to satisfy Clifton's creditors in May, 1760, and Washington was the purchaser.[1] On his not infrequent trips to Annapolis, Washington visited at the Carroll house, where he would meet the son as well as the father, after 1765. When he went to the Annapolis races, in September, 1771, as Washington records in his diary, he dined and lodged with the Digges, William and Ignatius, and dined one day with Lloyd Dulany, the next day with Governor Eden, going from there to the play. He dines with other friends two evenings in succession, each time going to the play, and on the 27th the entry is "dined at Mr. Carroll's and went to the ball." More dinners, with Mr. Jenifer and others, visits to the play and the Coffee House, and a supper at Daniel Dulany's on the 29th, fill out the gay chronicle.[2]

The friendship thus begun between Charles Carroll of Carrollton and Washington was cemented later in the trials and labors of the Revolution, and continued unimpaired through all the subsequent years, when their sympathy on all questions of Federal politics will be seen to have been complete and cordial. Charles Carroll of Carrollton was associated with Washington, and other gentlemen of Virginia and Maryland, about this time, in their scheme for improving the navigation of the Potomac River. The Potomac Company was formed before Charles Carroll's return to America, when in May, 1762, a meet-

[1] Washington Ledgers, Toner Transcripts.

[2] Ford's "Writings of Washington," vol. ii., p. 339.

ing was held in Frederick, Maryland, managers were elected and two treasurers appointed. At the session of the Virginia Assembly in 1772, a bill was introduced for opening and extending the navigation of the Potomac, from Fort Cumberland to tide-water, and Washington, who was in the Assembly, was one of the committee having the matter in charge. John Ballendine, a Virginian merchant, proposed to undertake this work. The Company were to subscribe £30,000, to defray expenses, and a paper is extant containing the names of some of the subscribers. Charles Carroll of Carrollton is put down for £1000.[1]

Charles Willson Peale was living in Annapolis in 1767, where his talents received their first encouragement through the kind interest and assistance of John Hesselius, a Swedish artist then located at the Maryland metropolis. Wishing to go to London to study his art, some of the prominent gentlemen of Annapolis subscribed a sum of money to defray his expenses, Charles Carroll of Carrollton heading the list.[2] These patrons were to be repaid by the artist in pictures on his return to America. In London Peale painted the portrait of Lord Chatham which Edmund Jennings presented, through Richard Henry Lee, to the "Gentlemen of Westmoreland," in 1768. "It was executed by Mr. Peale of Maryland who was recommended to me by several friends in that province, as a young man of merit and modesty,"[3]

[1] Papers of the late Dr. J. M. Toner.

[2] Littel's *Living Age*, vol. xliv—(From *The Crayon*—Article by Rembrandt Peale.)

[3] "Virginia Historical Register," 1848.

wrote Jennings to Lee, and no doubt Charles Carroll was one of the friends here spoken of. Enumerated in the list of Charles Willson Peale's portraits of eminent Americans is that of Charles Carroll,[1] and it is more than probable he painted other canvases for Charles Carroll of Carrollton which have not been identified.

[1] Appleton's "Cyclopædia of American Biography," edition of 1888—Article on Peale.

CHAPTER IV.

LETTERS OF THE FIRST CITIZEN.

1773–1775.

THE third memorable period in Maryland's eighteenth-century annals, of which we have made mention — that between 1770 and 1773 — found Charles Carroll of Carrollton ready equipped and eager to take his place as the champion of popular liberties. The rating of tithes and the collection of officers' fees were the two subjects agitating the province during these years. With the former, as a Roman Catholic, Charles Carroll doubtless thought he could not with propriety concern himself, but he felt that as a citizen he could speak with authority in behalf of the civil franchises of his native colony. The fees had been fixed by the Legislature from year to year, and were paid to the officers of the province, either in money or tobacco, in place of salaries. The House of Burgesses, however, had determined that the perquisites were too large in some instances, and in one case, at least, an officer had been guilty of taking illegal fees.

But all the efforts of the Burgesses to reform the

abuse, and reduce the amounts, were resisted by the Council, which refused to concur in a new law framed by the Assembly to regulate fees. And the Council contained among its members, several persons who benefited by the excessive rates, among others the two Dulanys, Daniel and Walter, the one the Secretary, the other the Commissary-General, of the province. When this matter was brought up by the Legislature in 1770, and the arrest ordered of the land-office clerk accused of taking fees not due to him, Governor Eden cut short the difficulty by proroguing the Assembly, and taking the case into his own hands. The old law had expired and the Burgesses and Council could not agree upon a new one. The wheels of state could not stand still, therefore, argued Governor Eden, it was the duty of the executive to settle the fees, which he accordingly did by a proclamation, dated the 26th of November, 1770, fixing them at the former rate. Thus the Assembly or Lower House, which was the Legislature proper, saw its will disregarded, and an arbitrary mandate superseding the decision of the people's representatives.

The law for the rating of tithes having expired also, the clergy went back to an old act which gave them ten pounds more of tobacco for each tithable than the one recently in operation. The murmurs of the people against these two "grievances" were loud and deep. But the former, as involving an important principle, the right of the people to tax themselves, fees being looked upon as taxes, struck at the base of Maryland's legislative liberties, and menaced

the whole structure, exciting wide-spread indignation and alarm. The colonists resented bitterly what they considered a tyrannical and contemptuous disregard of their rights and privileges. For two years and more the injustice rankled, the small body of officials, only, defending the action of the Governor, while the popular voice was unanimous against it.

At length the Government seemed to have found a champion able to make good the contention as to the legality of its proceeding, and to silence all of Eden's detractors. The *Maryland Gazette* of January 7th, 1773, contained his first letter, under the signature of "Antillon," in the form of a dialogue between the "First" and "Second Citizen," the latter defending the Proclamation, while the "First Citizen" attacked it. The learned and ingenious author so managed his argument, as to give the "Second Citizen" the complete victory in the controversy. Then appeared the protagonist of the people, in a new and unknown writer, who, taking up the gauntlet thus thrown down, and styling himself the "First Citizen" with equal ability and knowledge, maintained the thesis that fees were taxes, and taxes should only be laid upon the people by those who represented them.

The letters were continued, one answering the other, "Antillon" writing four and the "First Citizen" an equal number, until July 1st, when with the last letter of the "First Citizen," his victory was seen to be complete, an overwhelming popular sentiment sustaining him. Long before the conflict closed, the incognito of the two controversialists

was an open secret. The famous jurist, Daniel Dulany, stood confessed in "Antillon," or the "Second Citizen"; while as the "First Citizen," Charles Carroll of Carrollton first came before the world in defence of those principles of liberty with which his name was afterwards to be identified, throughout a long and distinguished career.

Letters of thanks came to the "First Citizen," from William Paca and Matthias Hammond, the representatives of Annapolis in the Assembly, and from the freemen of Frederick, Anne Arundel, and Baltimore counties. And the citizens of Annapolis, not thinking the letter of their delegates sufficient to show their gratitude, came in a body to present their thanks, as soon as it was generally known that Charles Carroll of Carrollton was the "First Citizen." [1]

The Governor had felt it necessary to repeal the Proclamation, and its mock funeral was performed by the people with appropriate ceremonies. The rejoicing was universal at this triumph. William Paca and Samuel Chase meanwhile had been discussing tithes with a clerical antagonist, the Rev. Jonathan Boucher. And it seems probable the following anecdote relates to these controversies over fees and tithes, though the date of the conversation must have been later than that assigned to it.

"From the earliest symptoms of discontent, Mr. Carroll foresaw the issue, and made up his mind to abide it. Once when conversing with Samuel Chase, in 1771 or 2,

[1] *Truth Teller*, New York, 1827, Article on Charles Carroll of Carrollton.

the latter remarked, 'Carroll, we have the better of our opponents, we have completely written them down.' 'And do you think,' Mr. Carroll asked, 'that writing will settle the question between us?' 'To be sure,' replied his companion, 'what else can we resort to?' 'The bayonet,' was the answer. 'Our arguments will only raise the feelings of the people to that pitch when open war will be looked to as the arbiter of the dispute.'"[1]

The letters of Carroll and Dulany, dealing somewhat too much in invective, and abounding in personalities, many of which are unintelligible to the modern reader; bristling with classical quotations, and freighted heavily with the lore of the law pedant; their argument sustained by laborious precedent and learned maxim, are now little read, though they remain worthy memorials of the eminent men who penned them. "They are political essays of a high order," says a distinguished Maryland historian, "taking a wide range through the doctrines of constitutional liberty, evincing much research, abounding in happy illustrations, and often pointed with the most caustic satire."[2]

These essays of Charles Carroll brought the modest, studious, and retiring planter out of the shades of private life into the full glare of political publicity. He was evidently little known at this time, even in his own province, while his adversary, Daniel Dulany, the author of a pamphlet on the Stamp Act, the

[1] *Ibid.* This article is believed to have been written by Dr. Richard Steuart, Charles Carroll's friend and physician, and to have passed under Carroll's eyes.

[2] McMahon's "History of Maryland," p. 389. Baltimore, 1831.

Secretary of the colony, and the great ornament of its judiciary, had established a reputation that had reached to the bounds of the colonies, and was familiar to the legal profession in the mother country. A traveller from New England, young, gifted, patriotic, an inquisitive student alike of books and of political institutions, visited the Southern Colonies at this time, and recorded in his journal an account of the political agitation then existing in Maryland. He writes:

"I spent about three hours in company with the celebrated Daniel Dulany (author of the 'Considerations'), the Attorney-General of the Province [Edmund Jennings], and several others of the bar, and gentlemen of the Province. Dulany is a diamond of the first water, a gem that may grace the cap of a patriot or the turban of a sultan. A most bitter and important dispute, is subsisting, and has long subsisted, in this Province touching the fees of the officers of this colony, and the Governor's proclamation relative thereto, which I have in print. At the conference of the two Houses. the dispute was conducted with good sense and spirit, but with great acrimony, by Daniel Dulany of the Council, and the Speaker, Tillingham [Tilghman], of the Lower House. The same dispute is now kept up in the public papers by Daniel Dulany on one side, and Charles Carroll of Carrollton on the other, with mutual bitterness. The signature of Dulany is 'Antillon,' that of Carroll is 'The First Citizen.' Carroll and Dulany are both men of great fortune." [1]

[1] "Memoir of Josiah Quincy, Junior," p. 100.

Charles Carroll began his rejoinder to the Editor of the Dialogue very cleverly, by sarcastically alluding to the latter's incognito as injurious chiefly to the writer himself, as his admirers would not know where to bring their incense. He then complains that he, the "First Citizen," has been misrepresented, in the conversation the Editor reports himself as having overheard, and he claims the right to give his sentiments in his own language. The Dialogue is then taken up, and the Editor, henceforward becomes identified with the "Second Citizen." This gentleman, writes Carroll, evinces a singular change in his principles. What has happened to cause it? Are not the same rulers in the Province now as in 1765, when the "Second Citizen" held such different views as to their wisdom and patriotism? Or is it not the case that a certain family, a few of whom held power then, wish to provide offices for all the rest of their connection? It was men then, not measures, to whom the patriot of the Stamp Act agitation was opposed.

It was true enough, as Charles Carroll had stated, that the Maryland Government had been for years very much in the hands of one family connection, the Taskers, Bladens, and Dulanys. Daniel Dulany's father-in-law, Benjamin Tasker, had been President of the Council for a long period before his death in 1767, and Dulany's brother-in-law, Col. Benjamin Tasker, Jr., who died in 1760, was also of the Council, and at the same time Secretary of the Province. The offices of Commissary-General and Secretary became almost hereditary in the Dulany family,

Col. Tasker, Sr., being Commissary-General in an interval between the two Daniel Dulanys, father and son, and now, in 1773, Walter Dulany held this place while his cousin was Secretary. Mrs. Daniel Dulany's mother, the wife of Benjamin Tasker, Sr., was a Bladen, niece of the former Governor of Maryland; and the present Governor, Robert Eden, who came to the Province in 1767, while he had married Lord Baltimore's daughter, had also connected himself with the Bladens, as this lady was a niece of Governor Bladen's wife. So that many ties seemed to bind the Dulanys to the Government, and to render it difficult for one of them to antagonize the Executive.

A little further on, Charles Carroll quotes from Daniel Dulany's own writings in support of the argument he makes against him. "On this occasion," he writes, "I cannot forbear citing a sentence or two from the justly admired author of the 'Considerations,' which have made a deep impression on my memory."[1] Dulany had said then that in a question of public interest the opinion of no Court lawyer, however respectable, should weigh more than the reasons adduced in support of the point. But now he seemed to think that the opinion of the Council in England, approving of the Proclamation, was all-sufficient to establish its legality. And the "First Citizen" goes on to show from examples in history, how Court lawyers have often betrayed the cause of the people, and that "Court and Country interests" are often dissimilar, though they should be

[1] Appendix A.

identical. A wicked minister, he asserts, is responsible for a violation of the law here in Maryland, as had often been the case in England. And to preserve their own salaries from diminution, a few officials had impaired the fortunes of all the rest of their countrymen.

Adopting the maxim of the British Constitution, "the King can do no wrong," Carroll gives the blame here to Governor Eden's advisers, his "ministers," and so adroitly avoids a personal charge against the Governor himself. To the contention that ministers are as much concerned in the preservation of the public liberties as other people in a community, and that they would not "engage to pull down a fair and stately edifice, with the ruins of which, as soon as it is leveled to the ground, they and their families are to be stoned to death," the answer is one of wisdom, and of warning, for all times and countries, "that for the present enjoyment of wealth and power liberty in reversion will be easily given up." History is full of examples, writes Carroll of this melancholy truth. And "power is apt to pervert the best of natures." [1]

In recognition of the first letter of Carroll, there appeared in the *Maryland Gazette* of February 11th, a letter to the "First Citizen," thanking him for having spoken with an "honest freedom." The writers of this epistle who signed themselves "Independent Whigs," add their condemnation of the Proclamation and its defenders to that of the "First Citizen," and add: "We had for a long time impa-

[1] *Ibid.*

tiently waited for a man of abilities to step forth, and tell our darling ministers in a nervous style the evils they have brought upon the community."[1] Doubtless Samuel Chase and William Paca were among these "Independent Whigs," and Chase may have been the writer here. "Antillon," the name now assumed by the "Second Citizen," in answering the Whigs, alludes sarcastically to the "First Citizen" as a pupil of St. Omer's, "the best seminary in the universe of the champions for civil and religious liberty."[2] He ridicules the maxim quoted by Carroll, and repeated by the "Independent Whigs," that "the King can do no wrong," especially as applied to a colonial governor. A card then appeared from the Whig gentlemen, solemnly asserting that the "First Citizen" "was and is totally a stranger to our signature," and adding: "If he has been told who we are, treachery alone could have communicated the information."[3]

The "First Citizen" in his second letter assures "Antillon" that he is writing without collusion with the "Independent Whigs," and does not know who they are, but he takes this occasion to thank them for their compliments. In his first letter, Charles Carroll had compared the Proclamation to the assessment of ship money by Charles I., and he had warned Governor Eden's minister of the fate of that monarch. He reasserted now, in reply to "Antillon's" palliating statement of the ship money controversy,

[1] *Maryland Gazette*, February 11th, 1773.
[2] *Ibid.*, February 18th, 1773.
[3] *Ibid.*, March 4th, 1773.

that the king's conduct would admit of no apology; and while the assessment "was a more open and daring violation of a free constitution," the Proclamation was "a more disguised and concealed attack, but equally subversive in its consequences, of liberty." He relates the circumstances; how the Assembly, fearing, "in case the two branches of the Legislature should not agree in the regulation of officers' fees," that the Government would attempt to establish them by proclamation, addressed the Executive, asserting "that the people of this Province will ever oppose the usurpation of such a right." And the Governor in his reply, November 20th, 1770, declared in effect that he would not interpose in the matter, yet a few days later, on the 26th, he issued the Proclamation, or his minister did it in his name.

Daniel Dulany was the "minister" against whom Carroll's attacks were directed, as it was the general belief that it was by his advice that Governor Eden had issued the Proclamation. The accusation, adds the "First Citizen," "will not appear too rash, when we reflect on the abilities of the man, his experience, his knowledge of the law and constitution, and his late flimsy and pitiful vindication of the measure."[1] Dulany knew that a similar Proclamation in 1733 "had agitated and disjointed this province till the year 1747." Governor Ogle, as "Antillon" admitted, had aroused by this act "the most violent opposition that ever a Governor of Maryland met with." Then what he had decreed as the Executive,

[1] Appendix A.

he in his office of Chancellor determined to be lawful, making himself both judge and party. But, asked Dulany, did Ogle then as the "First Citizen" had declared of such offenders, "deserve infamy, death, or exile."[1] "No—not quite so severe a punishment, Antillon," responded Carroll, "he only deserved to be removed from his government, if he was directed, advised, and governed by such a minister as thou art."

"Antillon" had shown "excellent reasoning, exquisite wit and humor" by his argument that if a governor was king, and the king could do no wrong, then Governor Eden could cut the throats and pick the pockets of all his Maryland subjects. But the "First Citizen" admitted that if the Governor, inspired by the counsels of "Antillon," should continue to oppose the wishes of the people, he "should be one of those who would most heartily wish for his removal." He then describes Governor Eden in these words, addressing Dulany:

> "I know the man; I know him to be generous, of a good heart, well disposed, and willing to promote, if left to himself, the happiness and welfare of the province, but youthful, unsuspicious, and diffident of his own judgment in matters legal and political, failings (if they deserve the name) that have caused him to repose too great a confidence in *you*."

And animadverting on his application of the British maxim before quoted, Charles Carroll says:

[1] *Maryland Gazette*, February 18th, 1773.

"The Governor is improperly called the King's minister, he is rather his representative or deputy; he forms a distinct branch, or part of our Legislature; a bill, though passed by both Houses of Assembly, would not be a law, if dissented to by him; he has therefore the power, *loco Regis*, of dissenting to laws; in him is lodged the most amiable, the best of power, the power of mercy, the most dreadful also, the power of death."

The maxim "the King can do no wrong," meaning that on his ministry responsibility rests, Carroll declares admits of limitation, and instances are not wanting in history where this limitation is recognized and acted upon. "Thus James the Second, by endeavoring to introduce arbitrary power, and to subvert the Established Church, justly deserved to be deposed and banished." Having followed "Antillon" in his digression and "hunted him through his labyrinths," the "First Citizen" returns to his subject, the Proclamation. In spite of the protest made against it beforehand, it came out "cloathed with the specious pretence of preventing extortion in officers." In a subsequent session of the Assembly it was denounced as "illegal, arbitrary, unconstitutional, and oppressive," and the "advisers of the said Proclamation" were declared to be "enemies to the peace, welfare and happiness of the Province, and to the laws and constitution thereof." Carroll ridicules "Antillon's" description of the Proclamation as a "*restriction of the officers*" and "*preventive of extortion*," when "in fact it ought rather to be considered as a direction to the officers, what to demand, and to the people, what to pay."

Common sense tells the people that the avowed object of the Proclamation was not the real one. And to demonstrate this Carroll introduces a dialogue between an officer and a citizen, the former declaring that if the fees had not been fixed he could exact what he pleased, and it would not be extortion, "for there must be some established measure or there can be no excess." The citizen bluntly retorts that this may be good law, but for his part he would simply refuse to pay what he considered an exorbitant demand, and if the officer sued him a jury would determine what was a reasonable recompense. The Proclamation as "Antillon" admitted would have no power to fix the rates, and therefore was "not preventive of extortion," unless its legality were established by the courts. The "First Citizen" pertinently asks if the judges or a jury are to decide the matter, if the former, they might be both judge of and party to the case, as in the instance of the Governor above mentioned. But granting that the judges have the right to do so, and they decide the Proclamation to be legal, the effect would be most pernicious:

"The right of the Lower House to settle fees with the consent of the other branches of the Legislature, a right which has been claimed and exercised for many years past, to the great benefit of the people, would be rendered useless and nugatory. The old table of fees, abounding with exhorbitances and abuses wonld ever remain unalterable, government would hold it up perpetually, as a sacred palladium, not to be touched and violated by profane hands."

But the question of deciding its legality should not be left with the judges, urges Carroll; to name but one reason, because the Council advised the Executive to issue the proclamation, and three of the judges are members of the Council. The "First Citizen" then enters into an argument to prove that fees settled by proclamation are taxes, quoting from Lord Coke, as to the definition of taxes as "a charge *put* or *set* upon any man, and new officers erected with new fees."

"So rates that have expired by law, and are revived by Proclamation and enforced by a decree of the Chancellor or the Provincial Court, are in fact *new fees*, and not those fixed originally by Act of Assembly. The settling of fees and the imposition of taxes are powers belonging to the representatives of the people acting in conjunction with the Executive and Upper House. . . . That the circumstances of the province are much changed since the enacting of [the Inspection Law] in 1747, the Proclamation itself evinces, by allowing planters to pay the fees of officers in money, in lieu of tobacco, which alternative has considerably lessened the fees, and is a proof, if any were wanting, that they have been much too great."

A further reduction of fees was desired by the Lower House, and opposed by the Upper.

"One would imagine that a compromise, and a mutual departure from some points respectively contended for, would have been the most eligible way of ending the dispute; if a compromise was not to be effected, the

matter had best been left undecided ; time and necessity would have softened dissention, and have reconciled jarring opinions and clashing interests, and then a regulation by law of officers' fees, would have followed, of course. What was done? The authority of the Supreme Magistrate interposed, and took the decision of this important question from the other branches of the Legislature to itself ; in a land of freedom this arbitrary exertion of prerogative will not, must not be endured."

"Antillon" had said that if fees were taxes then only the Legislature could settle them; yet they had been settled in England by the separate branches of Parliament and by the Court in Westminster Hall, and in Maryland by the Upper and Lower House, each acting alone. Carroll admits that such was the case with Parliament "by a right derived from long usage," and that the Assembly was modelled on that body, but as to the Courts in Westminster Hall—admitting that they have settled fees in some cases —they have never settled their own fees, whereas in Maryland, by the Proclamation, the Commissary-General, the Secretary, the Judges of the Land Office, all members of the Council, may with truth be said to have settled their own fees. So the Governor, in his office of Chancellor, would settle his own fees, and be "judge in his own cause." Comparing a British precedent brought up by "Antillon" with the Maryland case, Carroll says: "The settlement of fees by order of the Chancellor, under his majesty's commission, issued pursuant to an address of the House of Commons, is not, I will own,

a tax similar to ship-money. But a regulation of fees by Proclamation, contrary to the express declaration of the House of Burgesses, is very similar thereto." In forcible and picturesque language, the "First Citizen," near the close of his letter, thus describes his adversary:

"Dismayed, trembling and aghast, though skulking behind the strong rampart of Governor and Council, this 'Antillon' has intrenched himself chin deep in precedents, fortified with transmarine opinions drawn round about him, and hid from publick view, in due time to be played off as a masked battery, on the inhabitants of Maryland."[1]

The pupil of St. Omer's certainly had the advantage over the graduate of Cambridge in the use of clear and flexible English. Daniel Dulany, the learned lawyer, is not always the purest writer. In one of his letters he says, using *difficult* as a verb, in this following Sir William Temple's example,—"I am not difficulted." In his reply to Carroll's letter of March 11th he writes of the "First Citizen's" assertion that "Antillon's" account of the ship money assessment "is in the main true," and is not impartial, that "the exility of the insinuation shall not protect the principle of it, nor shall contempt so entirely extinguish indignation as to hinder me from exposing the subdolous attempt."[2] With much cleverness, but with too many personalities, Dulany combats the propositions of the "First Citi-

[1] Appendix A.

[2] *Maryland Gazette*, April 8th, 1773.

zen," ending with an ungenerous taunt as to Carroll's disfranchisement—warning the people not to put any trust in him where their "civil or religious rights" may be concerned.[1]

In the "First Citizen's" third letter he begins with a quotation as a heading from the "True Briton" on which he makes a commentary, pointing the moral of the value to a prince of a worthy minister. He quotes from Tacitus on the character of Sejanus, and notices some resemblances between the latter and "Antillon." He animadverts upon Dulany's allusions to his antagonist's character, understanding, personal appearance, and his "political and religious principles." And Carroll adds: "What my speculative notions of religion may be, this is neither the place nor time to declare; my political principles ought only to be questioned on the present occasion; surely they are constitutional, and have met, I hope, with the approbation of my countrymen." "Antillon" had asked, "Who is this Citizen?" And Carroll replies: "A man, 'Antillon,' of an independent fortune, one deeply interested in the prosperity of his country; a friend to liberty, a settled enemy to lawless prerogative."[2] Then the "First Citizen," after the controversial customs of the time, retaliates on "Antillon," giving personalities in return, and inveighing with perhaps pardonable warmth against his illiberal foe.

He returns to the charge "that fees are taxes, and that the settlement of them by Proclamation is arbitrary and illegal"—two points he believes he has

[1] *Ibid.* [2] Appendix A.

already proved, "Antillon" not having refuted the arguments he had adduced. But the "First Citizen" proceeds to cover again some of the same ground, bringing out new applications of his former reasoning, dwelling on the weak places of "Antillon's" pleas, and presenting further illustrations in support of his main contention. The proclamation came out "cloathed with the specious and pretended necessity of protecting the people from the rapacity of officers." But this very circumstance, considering the character of the minister, was likely to arouse suspicion. And Carroll adds these shrewd maxims, applicable to all political charters: "Our constitution is founded on jealousy and suspicion; its true spirit and full vigor cannot be preserved without the most watchful care, and strictest vigilance of the representatives over the conduct of administration."[1] The "First Citizen" refers to the similar controversy between the Government and the Assembly in 1739, and quotes from the records of the Council at that period to show that "Antillon's" "arguments and vindication of his favorite scheme" were the same in substance as those then used.

"Antillon" had taken exception to the "First Citizen's" statement in connection with the Revolution—that it had "rather brought about than followed King James' abdication of the crown." This Carroll explains in the following words, which certainly are free from any suspicion of Jacobitism:

"James' endeavors to subvert the establishment of Church and State, and to introduce arbitrary power, oc-

[1] *Ibid.*

casioned the general insurrection of the nation in vindication of it's liberties, and the invasion of the Prince of Orange, soon afterwards crowned King of England. James, dispirited by the just and general desertion of his subjects, and fearing or pretending to fear violence from his son-in-law, withdrew from the kingdom ; his withdrawing was what properly constituted his abdication from the crown ; his tyrannical proceedings were the cause indeed of that abdication, and voted, together with *his withdrawing*, an abdication of the government ; till that event the Revolution was incomplete."

No one but "Antillon," says Carroll, would have seen in such a statement any slur upon the Revolution. The "First Citizen," taking up the argument again, gives "Antillon's" defence of the Proclamation in the form of a syllogism, and proceeds to deny the major premise : "Taxes cannot be laid but by the Legislative authority ; but fees have been laid by the separate branches thereof ; therefore fees are not taxes."[1] Yet admitting the major premise in a narrow, restricted sense, "such cases as are warrented by long, immemorial, and uninterrupted usage"—they are exceptions to the general rule. "Antillon" had also maintained that the judges in Westminster Hall had settled fees, and inferred from this that the Governor of Maryland possessed a similar power. But, Carroll argues, even if it were granted that the assertion was exact, the inference would be illogical. To prove, that the Maryland Executive had such a power, it would be necessary to show "that the King by his sole au-

[1] *Ibid.*

thority, contrary to the express declaration of the Commons, has settled the fees of officers belonging to the courts of law and equity in Westminster Hall, that is, hath laid new fees on the subject, at a time when they were no longer paid out of the royal revenue, but taken out of the pockets of the people."[1]

Carroll discusses the assertion of "Antillon" that the judges had settled fees in England, and says it was done on such occasions "by virtue of the King's commission, at the request of the House of Commons—but it was without the sanction of a statute and was no precedent for the present case. The King had originally paid all his officers and it was but following out the spirit of the English Constitution "that he who pays salaries should fix them." The judges apparently had never settled *new fees* by their sole authority. Carroll quotes Coke upon Littleton, and Serjeant Hawkins in support of his position. But should "Antillon" be right this can make no difference in the Maryland case. The Legislature had settled fees in Maryland as far back as 1638. A law had been passed on this subject at that period, and in 1692, the Lower House had expressly denied the Governor's authority to settle fees, and claimed it for the freemen of the province—a claim which the Executive admitted. From time to time since, the claim had been reasserted by the Executive, and as many times expressly denied by the Legislature. And Carroll pertinently adds:

[1] *Ibid.*

"Precedents drawn from the mere exercise of a disputed authority, so far from justifying the repeated exercise of that authority, suggest the strongest motive for resisting a similar attempt, since the former temporary and constrained acquiescence of the people under the exertion of a contested prerogative is now urged as a proof of its legality."[1]

The "First Citizen" again quotes "Antillon" against himself, giving a passage from the "Considerations" in support of the point he has just made. "Antillon" should not assume, as Carroll says, that the Proclamation is constitutional because its legality is determinable in the courts. On the same principle the ship money asssessment would be constitutional, for the majority of judges did actually so decide it, and a decision on the Proclamation might be just as fallacious. Recapitulating and summing up the matter, Carroll says:

"That fees are taxes, I hope has been proved; but should it be granted that they are not taxes, because they have been settled in England by other authority than the Legislature, (which I do not admit, if by a settlement of fees under the authority of the judges, an imposition of new fees be meant,) still I contend, that a settlement of fees in this Province by Proclamation is illegal, and unconstitutional, for the reasons already assigned."

But he goes on to add new reasons, and puts the suppositious case of a similar exercise of prerogative in a British minister against the expressed will of the House of Commons, and asks what would be the

[1] *Ibid.*

consequence. "If a minister should be found daring enough to adopt the measure, a dismission from office might not be his only punishment," and he goes on to detail what the Commons would probably say to such a minister in the way of trenchant argument and scathing rebuke. And returning to the case in hand, he asks, What will the people of Maryland say to "Antillon"?

"They will probably tell him, *you* advised the Proclamation, with you it was concocted in the Cabinet, and by *you* brought into Council; *your* artifices imposed on the Board and on the Governor, and drew them into an approbation of a scheme outwardly specious and calculated to deceive; *you* have since defended it upon principles incompatible with the freedom, ease, and prosperity of the Province."[1]

The settling fees by proclamation is the exercise of an arbitrary will taking away "a part of the people's property without their consent." "Antillon" had not only made the Governor responsible for the Proclamation, but he tried to show that it had met with the approbation of the King. Of this intimation Carroll asks, "Was it to intimidate, and to prevent all further writing and discourse about the Proclamation?" "Antillon" had affected to hear with horror Carroll's brave words: "In a land of freedom this arbitrary exertion of prerogative will not, must not be endured," and to declare the repetition of them dangerous. But the "First Citizen" fearlessly responds: "In a free country, a contrary doc-

[1] *Ibid.*

trine is insufferable; the man who dares maintain it, is an enemy to the people." After defending himself against "Antillon's" charges of unfairness in his citations, and referring to "Antillon's" personalities, and the threat of religious persecution lying under one of his Latin quotations, Carroll closes his third letter with a citation on the evils to be apprehended as coming to his fellow-citizens and to his prince, from a tyrannical minister.

In his fourth and last letter, the "First Citizen" gives some further elucidation of his answer to "Antillon's" argument, "that fees are improperly styled taxes, because they have been settled by the separate branches of the Legislature, which only can impose a tax."[1] "It is true, as Carroll admits, that "the Lords and Commons, and the Upper and Lower Houses of Assembly have each separately settled the fees of their respective officers by the particular usage of Parliament, which must be deemed an exception to the general law, and ought, as all exceptions, to be sparingly exercised, and in such cases and such manner only, as the usage will strictly warrant." And as Carroll adds: "Inconsistencies in all governments are to be met with; in ours, the most perfect which was ever established, some may be found. A partial deviation from a clear and fundamental maxim of the constitution cannot invalidate that maxim." Coming back to a discussion of the meaning of old and new fees, the "First Citizen" says: "The question therefore is now reduced to these two points, First, Has not government

[1] *Ibid.*

attempted to settle the rates of officers' fees by Proclamation, secondly, Are not fees so settled, new fees? If they are, upon 'Antillon's' own principle, government hath no right to settle them." In regard to the alleged power of the judges to settle fees Carroll says here:

"It has been already noticed that the authority exercised by the judges of settling fees, that is, of ascertaining the *ancient* and *legal fees*, in pursuance of a commission issued by the King, on the address of the House of Commons, is very different from the authority now set up, of settling fees by Proclamation, issued contrary to the declared sentiments of the Lower House of Assembly; if judges in this province may settle fees, because the judges in England have settled them in the manner above-mentioned, where was the necessity of settling fees by Proclamation?"

But leaving English precedents out of the question Carroll goes on to say:

"The regulation of officers fees in Maryland has been generally made by the Assemblies. The authority of the Governor to settle the fees of officers, has twice only, as we know of, interposed, but not then without meeting with opposition from the delegates, and creating a general discredit among the people, a sure proof that it has always been deemed dangerous and unconstitutional."[1]

To the question how came the British Parliament to suffer the judges in England to exercise a power there of which they had always been tenacious,

[1] *Ibid.*

Carroll says the answer may be made by putting the further question: "How came many unconstitutional powers to be exercised by the Crown, and suffered by Parliament?" The constitution has been only gradually, and by the constant efforts of patriots brought to its existing state of perfection. "Upon the whole, the fabric is statély and magnificent, yet a perfect symmetry and correspondence of parts is wanting; in some places the pile appears to be deficient in strength, in others the rude and unpolished taste of our Gothic ancestors is discernible." Carroll then takes an historical view of the English constitution, from the Saxon period and the Norman revolution, down to his own time. Under Edward the Sixth, Mary, and Elizabeth, says Carroll, "the Parliaments were busily engaged in modelling the national religion to the Court standard; their obsequiousness in conforming to the religion of the prince upon the throne, at a time when the nation was most under religious influence, leaves us no room to expect a less compliant temper in matters of more indifference."

Though the Parliaments under the Tudors were generally compliant "instruments of power," rather than the "guardians of liberty," yet under Elizabeth's wise administration, the national prosperity increased, and the supremacy of law was more fully recognized as dividing allegiance with the *ipse dixit* of an arbitrary sovereign will.

Carroll notes that during the reign of Charles the Second "Parliaments were sedulously employed in composing the disorders consequent on the Civil

War, healing the bleeding wounds of the nation, and providing remedies against the fresh dangers with which the bigotry and arbitrary temper of the King's brother threatened the constitution. Since the Revolution," he adds, "Parliaments have relaxed much of their ancient severity and discipline. Gratitude to their great deliverer, and a thorough confidence in the patriotic princes of the illustrious house of Brunswick, have banished from the majority of those Assemblies all fears and jealousies of an unconstitutional influence in the Crown." The "First Citizen" concludes this subject with the observation that "the necessities of the English Kings, which constrained them to have frequent recourse to Parliamentary aids, first gave rise to, then gradually secured the liberty of the subject." But in Maryland he adds, the Government is almost entirely independent of the people, therefore is it the more important for the latter to maintain their right to provide for the Government's officers by legislative enactments, to which Governor and Council give the final seal by their consent. Otherwise

"the delegates will soon lose their importance, Government will every day gain some accession of strength; we have no intermediate state to check its progress; the Upper House, the shadow of an aristocracy, being composed of officers dependent on the Proprietary, and removable at pleasure, will, it is to be feared, be subservient to his pleasure and command." [1]

[1] *Ibid.*

Carroll thinks a change should be made in the constitution of the Council, excluding the officers—Secretary, Commissary-General, and Judges of the Land Office from a seat in the Upper House.

The "First Citizen" then gives categorical answers, twelve in number, to the "argumentative part" of his adversary's last letter, and these replies embrace very nearly the whole of the remaining part of this paper.

In the course of these counter arguments, Carroll thus comments sarcastically on Dulany's personal position in the pending controversy. "Encomiums on the disinterestedness of officers, and censures of some obnoxious members, in fact of the whole Lower House, come with peculiar propriety and decorum from a man who is an officer, and was particularly levelled at in the spirited and patriotic resolves of that House." And he adds these wise reflections on the causes and the source of political liberty: "Not a single instance can be selected from our history of a law favorable to liberty obtained from government, but by the unanimous, steady, and spirited conduct of the people. The Great Charter, the several confirmations of it, the Petition of Right, the Bill of Rights, were all the happy effects of *force* and *necessity*."

In his seventh answer to "Antillon," commenting on the assertion of the latter that the Governor was not directed by the majority of his Council, "they having no authoritative influence," Carroll thus apostrophizes the young Maryland Executive. "Oh unsuspicious Eden! How long wilt thou suffer

thyself to be imposed on by this deceiving man?" He objects to the hardship that charges should be levied on the people, "without—nay, against the consent of their representatives," that some officers may enjoy large salaries, with little work. The Secretary's office (that held by "Antillon") Carroll considers a sinecure, "yet he has had the assurance to ask a net income of £600 sterling per annum to support his dignity." On the subject of precedents and their value, the "First Citizen" justly observes:

"The instances mentioned by 'Antillon' of fees settled by Proclamation prove only the actual exercise of an unlawful prerogative. The dangerous use which has so often been made of bad, should caution us against the hasty admission of even good precedents, which should always be measured by the principles of the Constitution, and if found the least at variance, or inconsistent therewith, ought to be speedily abolished."[1]

Here follows an apposite quotation from Dickinson's letters of a "Pennsylvania Farmer," with a eulogistic note, from Carroll recommending these papers to his countrymen, as abounding with "judicious observations, pertinent to the present subject, and expressed with the utmost elegance, perspicacity, and strength."

Having replied to "Antillon's" arguments, the "First Citizen" takes up the personal part of "Antillon's" letter, the latter having still insisted that Carroll had "assistants and confederates," and "silly as my productions are," Carroll adds humorously,

[1] *Ibid.*

"he will not allow me the demerit of being single in my folly." To the accusation that he is influenced in his attacks on "Antillon" by "envy and malice," the "First Citizen" responds, why should he be accused of malice? Has "Antillon" injured him? The "suspicion implies a consciousness of guilt." As to the other count in the indictment, Carroll replies proudly: "What should excite my envy? The splendour of your family, your riches, or your talents? I envy you none of these, even your talents upon which you value yourself most, and for which only you are valued by others."

Carroll's liberal views find remarkable expression in these sentences, in relation to the English Revolution:

"That the national religion was in danger under James the Second from his bigotry, and despotic temper, the dispensing power assumed by him, and every other part of his conduct clearly evince. The nation had a *right* to *resist*, and so secure it's civil and religious liberties. I am as averse to having a religion crammed down people's throats as a Proclamation. These are my political principles, in which I glory; principles not hastily taken up to serve a turn, but what I have always avowed since I became capable of reflection. I have not the least dislike to the Church of England, though I am not within her pale, nor indeed to any other church; knaves and bigots of all sects and denominations I hate and despise."[1]

The "First Citizen" retorts with manly sarcasm to Dulany's unworthy insinuation, implied in the

[1] *Ibid.*

words quoted from him: "Papists are distrusted by the laws and laid under disabilities":

"They cannot, I know (ignorant as I am) enjoy any place of profit or trust, while they continue papists; but do these disabilities extend so far as to preclude them from thinking and writing on matters merely of a political nature? 'Antillon' would make a most excellent inquisitor; he has some striking specimens of an arbitrary temper, the first requisite. He will not allow me freedom of thought or speech."

The last shaft of the "First Citizen" is a retort on Dulany's declaration that he does not believe him to be "a man of honor or veracity." To this Carroll replies:

"It gives me singular satisfaction that you do not, for a man destitute of *one*, must be void of the *other*, and cannot be a judge of *either*. Your mode of expression, which, in general is clear and precise, in this instance discovers a confusion of ideas, to which you are not often liable; but you have stumbled on a subject of which you have not the least conception. . . . Honor, or veracity? Are they then distinct things? Do you imagine that they can exist separately? No, they are most intimately connected: who wants *veracity* wants *principle*, *honour*, of course, and resembles 'Antillon.'"[1]

Dulany's attempt to "rekindle extinguished animosities," or to fan into a flame dormant prejudices against the Roman Catholics, is nobly rebuked by Carroll in the magnanimous sentiment, spoken for

[1] *Ibid.*

himself and his co-religionists, *Meminimus et ignoscimus*—"We remember and forgive."

The "thorough confidence in the patriotic princes of the illustrious house of Brunswick," had given place less than a year later to "fears and jealousies of an unconstitutional influence in the Crown." And in 1774, America was on the eve of a Revolution. The troubles of 1765 were revived by the tax on tea which met with a general resistance throughout the colonies. And the action of the citizens of Boston in December, 1773, in destroying the shiploads of this commodity sent there, which brought upon them the vengeance of the Government, in the passage of the Boston Port Bill, forced matters to a crisis. In Maryland the sentiment against the obnoxious duty was as strong as in any other colony, and when some Scotch merchants of Annapolis braved public feeling by accepting a consignment of tea and actually proposed to land it at the Maryland capital, the indignation and excitement in the small metropolis knew no bounds. The citizens had recently adopted a Non-Importation Agreement pledging themselves neither to import nor to pay duties on tea. Yet Mr. Anthony Stewart, proprietor of the brig *Peggy Stewart*, one of the signers of this paper, unmindful of his pledges, had paid the duties on seventeen packages of tea which were brought from London on his vessel, consigned to a firm of Annapolis merchants, Thomas Charles Williams & Company. The ship arrived on the 15th of October, 1774, and a meeting of the citizens was immediately called to investigate the matter and punish the transgressors.

A committee was appointed to prevent the landing of the forbidden cargo, and another general meeting called for Wednesday the 19th of October, at which the sense of the community would be fully made known, on the course to be pursued. Mr. Stewart hastened to exonerate himself, in a handbill distributed to the citizens. Captain Jackson, who commanded the brig, made an affidavit that he knew nothing of the tea's being on board until just as he was leaving England, when it was too late to return it. Mr. Stewart acknowledged his error in paying the duty, having done it, he explained, to enable the captain to land the fifty-three people who had been three months on shipboard, the vessel moreover being leaky adding to their discomfort.

At the meeting on the 19th, which was largely attended, James and Joseph Williams and Anthony Stewart read their confession and apology, a paper prepared for them by the committee, in which in humble terms they admitted they had been guilty of a "daring insult, an act of the most pernicious tendency to the liberties of America," the Williamses in importing, and Stewart in paying duty on the tea. They asked pardon for their offence and made solemn promises for the future, closing in these words:

"And to show our desire of living in amity with the friends of America, we request this meeting, or as many as may choose to attend, to be present at any place where the people shall appoint, and we will there commit to the flames or otherwise destroy, as the people may choose, the detestable article which has been the cause of this our misconduct."

Anthony Stewart then offered, by the advice, it is said, of Charles Carroll of Carrollton,[1] to burn the brig also, as the destruction of the tea alone would only punish its owners, and Stewart who was regarded as the chief offender would go scot free. And Stewart was assured that only by such a sacrifice could he reinstate himself in public favor. With his own hand, therefore, he fired the vessel, the fair Scotch Peggy, his daughter, for whom the ship was named, sitting on the piazza of her father's house, according to tradition, and watching the work of destruction.

Not long afterwards, at an entertainment given by Lloyd Dulany, who had returned to Maryland and was living in Annapolis, the punch was brewed in a handsome silver bowl the guests had never seen before. Their host explained that it had been brought over in the *Peggy Stewart*, sent to him by a friend in England, and placed by Captain Jackson in his cabin, with his own private property. Charles Carroll of Carrollton was present among the company assembled, and smilingly responded to Dulany's account: "We accept your explanation, provided the bowl is used to draw always this same kind of tea."[2] This historic bowl is still preserved, one of the relics of the "Ancient City" by the Severn.

Maryland, in the burning of the *Peggy Stewart* and her cargo, here made her own spirited and

[1] McMahon's "History of Maryland," p. 409. Ridgeley's "Annals of Annapolis," p. 162.

[2] Riley's "History of Annapolis," p. 309.

picturesque protest against the doctrine of taxation without representation, and Charles Carroll of Carrollton is seen to have been a prominent figure on the occasion. Mindful of the value of such an object-lesson to her children, Maryland holds in honor now, among her State holidays, the 19th of October, which has a place in her calendar as "Peggy Stewart's Day."

The Continental Congress met in Philadelphia in the fall of 1774, an event of great interest to all Americans. The delegates from Maryland were Matthew Tilghman, Thomas Johnson, Robert Goldsborough, William Paca, and Samuel Chase. Among the visitors who were drawn thither by the spectacle was Charles Carroll of Carrollton." "This day," wrote John Adams in his diary for September 14th,

"Mr. Chase introduced to us a Mr. Carroll of Annapolis, a very sensible gentleman, a Roman Catholic, and of the first fortune in America. His income is ten thousand pounds sterling a year now, will be fourteen in two or three years, they say; besides his father has a vast estate which will be his after his father."[1]

On the 25th of May, 1774, there had been a meeting of the citizens of Annapolis to express their sympathy with Boston on the closing of her port by the British authorities, and a committee was then appointed to join with Baltimore and other parts of the Province in forming a Non-

[1] Works of John Adams, vol. ii., p. 380.

Importation Association. The first Maryland Convention, which met in June, appointed delegates to the Continental Congress. And in October, as has been seen, the "Peggy Stewart" incident had been the outcome of the violation of the Association pledges. Charles Carroll of Carrollton, who had no doubt been present at the town meeting of May 25th, and was conspicuous in the October affair, was also prominent at a large assemblage of the inhabitants of Anne Arundel County and the city of Annapolis, which met at the latter place, November 9th, 1774. Forty-four persons were there named a Committee for the County and City, to carry into execution the resolves of Congress against imports and exports. Charles Carroll of Carrollton was appointed one of this committee, and any seven of them had power to act for the whole.

He was also named, with six other gentlemen, a member of the Committee of Correspondence for the county and city, and was associated here with Samuel Chase, William Paca, and Thomas Johnson. It was then resolved, "that the gentlemen appointed to represent the county and city in the late Provincial Convention, together with Charles Carroll of Carrollton, ought to attend the next provincial meeting on the 20th instant, and have full power to represent the county and city."[1] Sweeping aside the outworn and invidious limitations that had hitherto prevented Charles Carroll

[1] Riley's "History of Annapolis," p. 170.

as a "Papist" from holding a seat in the Assembly, his fellow citizens now forced their champion and favorite to the front, to begin his many years of conscientious and conspicuous service in their behalf.

The Convention met November 21st, remaining in session until the 25th. The Maryland delegates to the Congress submitted the proceedings of that body to the Convention, and the latter pledged its faith afresh to carry out the resolutions of the Confederate Colonies. As the counties were not all represented, the Convention adjourned to meet again the 8th of December. Its numbers had been augmented from fifty-seven to eighty-five deputies, when it was called together in December; and at this time it passed those spirited and caustic resolves on the subject of arming the militia, which were in a part of their phraseology copied by some of the Virginia patriots, and re-echoed by Patrick Henry in the Virginia Convention. [1]

Meeting again in December, the Convention appointed a Provincial Committee of Correspondence, and Charles Carroll of Carrollton was made a member of it. The six others on the committee were Charles Carroll, barrister, Matthew Tilghman, John Hall, Samuel Chase, Thomas Johnson, and William Paca. The last five named were appointed delegates to Congress for the coming year, Robert Goldsborough was reappointed, and Thomas Stone was added to the delegation. The Convention met

[1] Journal of the Convention; Maryland Archives, i., 1254.

next time in April, 1775, one hundred members answering to the roll-call. While declaring their unaltered allegiance to George III., the Marylanders renewed, on this occasion, their provisions for the regulation of the militia, and the news of the battle of Lexington, received in letters from the North, warned them that the Revolution had reached the stage of armed resistance.[1]

In the meantime the Anne Arundel County Committee of Observation was busy keeping the town and county faithful to the prohibitions of Congress and Convention. On the 28th of June, seven of the Committee, with Charles Carroll of Carollton presiding, met to consider the case of a certain Captain Henzell of the ship *Adventure*, who had arrived at Annapolis with a cargo of porter, cheese, and coal, and seventy passengers, including servants. Captain Henzell testified that he had intended to stop at Madeira, and sell his goods there, but had been prevented by unfavorable winds. The Committee refused to allow him to land his merchandise, but permitted him to put his passengers ashore.[2]

At the session of the Maryland Convention, beginning July 26th and ending August 14th, 1775, there were present a hundred and forty-one members, Anne Arundel County sending nine delegates, both Charles Carroll, barrister, and Charles Carroll of Carrollton being among the number. The first act of this Convention was to adopt the "Association

[1] Journal of Maryland Convention.

[2] Riley's "History of Annapolis," p. 176.

of the Freemen of Maryland," which was to be signed by all the members, and by the freemen of the province generally. This paper, which recited the wrongs of the colonies, and approved "of the opposition by arms to the British troops employed to force obedience to the late acts of Parliament," pledged the Association to support an armed resistance to Great Britain in the present crisis, as well as the measures restraining commerce with the mother-country which Congress had adopted. The declaration of the Associators then became the charter of the colony, until supplanted by the Constitution of 1776. It sketched a military system, one feature of which was the enlistment of forty companies of minute-men; it put the executive power, during the recess of the Convention, into the hands of a Committee of Safety; and it provided for the expenses of the Province by the issue of paper money.[1]

On Thursday, the 27th of July, a committee was appointed consisting of nine of the most prominent members of the Convention, the two Carrolls being among them, to "consider the ways and means to put this province into the best state of defence." The Committee of Safety, appointed on the last day of the session, consisted of eight members from the Eastern, and eight from the Western Shore. These last were Daniel of St. Thomas Jenifer, Thomas Johnson, William Paca, Charles Carroll, barrister, Thomas Stone, Samuel Chase,

[1] Journal of the Convention. The original manuscript of the "Association of the Freemen of Maryland" (a part of it missing) is preserved under a glass case at the State House, Annapolis.

Robert Alexander, and Charles Carroll of Carrollton.[1]

Charles Carroll Sr. writes to his son, presumably from "Doughoregan Manor," August 4th, giving a few items of public interest, showing on what subject men's thoughts were bent: "I have a letter of this day from Mr. Lux. He says 400 barils of gunpowder are come to Philadelphia, 800 do. to New York. The saltpetre work at Philadelphia goes on well; they expect to have 30 tons ready by January."[2]

The citizens of Anne Arundel County and the City of Annapolis met on the 12th of September, 1775, with Charles Carroll, barrister, in the chair, and a Committee of Observation for the town and county was appointed for one year, consisting of thirty persons, of whom Charles Carroll of Carrollton was one. He was also elected one of the deputies to represent the county in the Convention for one year; and with six others he was to be of a committee to license suits in the county, for the same period. His name comes first on the Committee of Correspondence appointed for the county, for the ensuing twelve months.[3]

It will be seen that Charles Carroll's work, as mapped out for him at this time, called for a full surrender of his talents and energies, as a member of the Provincial Convention, and Provincial Council of Safety, and of three important committees in

[1] Journal of the Convention, Archives of Maryland, vol xi.

[2] Wisconsin Historical Society.

[3] Riley's "History of Annapolis," p. 176.

his own county. The Council of Safety was in session, at intervals, from August 29th to November 29th, 1775. They took into consideration proposals for erecting a powder mill, salt and saltpetre works, and for the manufacturing of arms. On one day they contracted for 650 "musquets" to be made in "Frederick Town," and 500 in "Baltimore Town." Then there were cartouche boxes, bayonets, and other paraphernalia of war to be procured for the Maryland soldiery. A letter from Charles Carroll of Carrollton to Daniel of St. Thomas Jenifer then in Baltimore, of the 10th of September, shows him sharing the responsibility with William Paca of sending, on their own authority, powder to the frontier, where the inhabitants were in alarm at the approach of the Indians. Of the necessity of this informal action he writes:

"I am sensible this manner of proceeding is not quite regular, but it would be a great loss of time to call together the Council of Safety, and if we should agree separately to what we should agree if collected together, the difference is not material; at this critical juncture, and as the exigency seems pressing, we must not stand too much in form."[1]

The following letter from Charles Carroll of Carrollton to General Washington, who had been in command of the Continental Army since the 15th of June, was written to introduce "Mr. Key." This

[1] Maryland Archives, vol. xi., "Journal and Correspondence of the Council of Safety."

gentleman was probably John Ross Key of Frederick County, a nephew of Edmund Key, and a lieutenant of a Maryland Rifle Company which went to Boston in this year. He was the father of Francis Scott Key.

ANNAPOLIS, 26th September, 1775.

SIR,

At the request of the bearer Mr. Key, I have presumed to trouble you with this letter, to introduce to your notice and countenance, that young gentleman, who, I flatter myself will endeavour to deserve your good opinion and favour. Should hostilities be suspended, and a negotiation take place this winter, I hope to have the pleasure of seeing you in this city on your way to Virginia. If a treaty is but once set on foot, I think it must terminate in a lasting and happy peace; an event, I am persuaded, you must earnestly desire, as every good citizen must, in which number you rank foremost; for who so justly deserving of that most glorious of all titles, as the man singled out by the unanimous voice of his country, for his love and attachment to it, and great abilities, and placed in a station of the most exalted and dangerous prominence. If we cannot obtain a peace on safe and just terms, my next wish is, that you may extort by force from our enemies what their policy and justice should have granted, and that you may long live to enjoy the fame of the best—the noblest deed—the defending and securing the liberties of your country.

I am with the greatest esteem Sir,

Your most obedient, humble servant,

CHARLES CARROLL OF CARROLLTON.

P. S. I desire my most respectful compliments to Generals Lee and Gates. I should have done myself

the pleasure of writing to the former by this opportunity, but that I know he has other things to do than to read letters of mere compliment—this city affords nothing new.[1]

[1] MS: Letter, Dr. Robert A. Emmet. This letter was taken by Jared Sparks from the Washington MSS:, and given by him to someone in England. See facsimile in the *Magazine of American History*, vol. xxii, p. 353.

CHAPTER V.

THE MISSION TO CANADA.

1775–1776.

THE Council of Safety met at Chester Town in Kent County, on the 20th of October, 1775, and Charles Carroll of Carrollton was among the ten members present. Samuel Chase wrote to the Council the 1st of November, transmitting papers from Congress, and copies of them were to be sent to the Committee of Observation in each county. The Convention met again, Thursday, December 7th. The Anne Arundel County delegates were Charles Carroll, barrister, Thomas Johnson, Samuel Chase, and Charles Carroll of Carrollton. On the 13th a committee of five was appointed, with Charles Carroll of Carrollton as its chairman, "to devise ways and means to promote the manufacture of saltpetre." A report from this committee was brought in on the 26th, elaborating a plan for a saltpetre manufactory in every county, and one general refinery where all the saltpetre could be taken to be purified, while a powder mill was to be

erected in which the saltpetre was to be made into gunpowder.

The Convention, on the 1st of January, 1776, reported resolutions to put the province in a state of defence. Of the force of over one thousand four hundred men which was to be raised, eight companies were to be formed into a battalion, and the rest were to remain in companies of one hundred each. Two committees were appointed, one intrusted with the raising, clothing and victualling the forces, and the other charged with the work of formulating the rules for their government. Charles Carroll of Carrollton was one of the five appointed on the last named committee. On the 5th of January, the committee which had been named, December 29th, to prepare instructions for the delegates in Congress brought in their report. As it was finally passed on the 11th of January the report instructed the Maryland delegates "to disavow, in the most solemn manner, all design in the colonies of independence." It is known that Charles Carroll of Carrollton strongly opposed the position here taken by Maryland, and that he advocated in the Convention the "design of independence." [1]

With the report for the emission of bills of credit, and that for the regulation and government of the forces, the latter a document consisting of sixty-five articles, the Convention closed its proceedings.[2]

The Council of Safety met January 18th, the day the Convention adjourned. A resolution of Congress

[1] Sanderson's "Biography of the Signers," vol. vii., p. 252.

[2] Journal of the Maryland Convention.

was read, recommending the selection of suitable persons in each colony, to collect all the gold and silver coin to be found, to supply the financial needs of the government in the Canada campaign, and Charles Carroll of Carrollton was one of those selected for Anne Arundel County.[1] The correspondence of the Council in the early spring of 1776 gives evidence of the alarm felt in Annapolis and Baltimore, at the appearance of the British man-of-war, the *Otter*, with her tenders, in the waters of the Chesapeake. Charles Carroll of Carrollton wrote from Baltimore to Col. Thomas Dorsey of the Elk Ridge Militia March 8th:

"SIR: I left the Council of Safety yesterday in the afternoon, after the man-of-war and her tenders had passed the mouth of our river. If any place is in danger of an immediate attack, I think it will be the town of Baltimore; and on talking with their Committee of Observation, I find they have men enough, but they are very badly armed. I think, therefore, it will be proper that you march your battalion, or all the companies of men in it that have serviceable arms, with all expedition to this town, unless you have express directions from the Council of Safety to go with your battalion to some other place. They will confirm this order of mine."

But on Saturday, March 10th, at midnight, a letter went from the Council to Barrister Carroll of the Baltimore Committee of Observation, reporting the *Otter* to have appeared off Annapolis that day.

[1] Maryland Archives, vol. xi., "Journal and Correspondence of the Council of Safety," p. 132.

The Chairman of the Baltimore Committee, Samuel Purviance, wrote to Charles Carroll of Carrollton, who was again in Annapolis, early on the morning of this same day, stating that he had been roused at one o'clock, by a letter which was to be dispatched to Captain Nicholson of the *Defence*, who he thinks "is very capable" of taking the British vessel. The *Otter*, however, got off, down the bay, with her tenders and four prizes.[1] At a meeting of the Council on the 14th of March, it was ordered that the Treasurer of the Western Shore pay to Daniel of St. Thomas Jenifer £120 currency for so much in specie by him paid to Charles Carroll of Carrollton.[2] This was doubtless the coin collected in Anne Arundel County for the Canada operations.

Charles Carroll of Carrollton had written to Robert Carter of Virginia in February, on the subject of erecting iron mills for the province, on part of the property of the Baltimore Company. The three members of the Company, Charles Carroll of Carrollton, Charles Carroll, barrister, and Daniel Dulany ("Antillon"), had consented to the contract, and Carter was asked for his signature. His reply is as follows:

March 16, 1776.

SIR:

Your letter of the 22nd day of last month, February, came to hand yesterday only, it being enclosed in one signed by William Whitecroft. The letters advise that the active gentlemen of the Province of Maryland are of

[1] *Ibid.* [2] *Ibid.*

opinion that mills for flatting and slitting iron should be erected in that Province, immediately, that yourself, C. Carroll, Barrister, and Daniel Dulany, Esqrs., of the first part, Mr. William Whitcroft on the second part, have had under consideration the following scheme—viz :

The Baltimore Company to lease to William Whitcroft the old Forge and 20 acres of land adjoining thereto, and 100 acres of woodland, for the term of 21 years. W. W. to erect on the premises two mills, one thereof for flatting iron, the other for slitting iron, he to pay £20 Maryland currency yearly rent during said term, and furthermore, that all the improvements are to be left in good tenantable repair, they to be the property of our company, at the expiration of said lease without paying any compensation for them.

As it is now thought expedient in your province to erect such mills as mentioned before, and as Mr. W. W. has chosen a situation, belonging to our Company for said works, I apprehend clearly that that situation should not be withheld from the publick, and do most heartily concur with those three gentlemen of our Company mentioned before, relative to leasing the Old Forge to W. W., and pray, Sir, write my name to the lease, which the Baltimore Company may execute to W. W.

I am, sir, yours etc.,
ROBERT CARTER.

To CHARLES CARROLL, Esq :
of Carrollton.[1]

Charles Carroll was now to come forward more prominently before the general public, as one of the agents designated by the Continental Congress to

[1] Carter Letter Books.

represent the Colonies in Canada. A commission of three had been named by Congress in February, to visit Canada in its behalf. Benjamin Franklin, then over seventy years old, Samuel Chase, and Charles Carroll of Carrollton were the persons chosen.

John Adams in a letter to a friend, February 18, 1776, telling of the committee says:

"The characters of the two first you know. The last is not a member of Congress, but a gentleman of independent fortune, perhaps the largest in America—a hundred and fifty or two hundred thousand pounds sterling; educated in some University in France, though a native of America; of great abilities and learning, complete master of the French language, and a professor of the Roman Catholic religion; yet a warm, a firm, a zealous supporter of the rights of America, in whose cause he has hazarded his all." [1]

This selection of Carroll, who was not then in Congress, was a merited compliment to the distinguished Marylander, and doubtless was suggested by his fellow townsman Chase who had been associated with him in provincial politics, and knew his worth and sterling patriotism. But there were two reasons why Charles Carroll of Carrollton should have been specially selected for this mission; his religion, which was that of a large majority of the population of the province of Quebec, where there were about 150,000 Roman Catholics and only 360

[1] Hayden's "Charles Carroll of Carrollton," p. 6. American Archives, iv., 1183.

members of the Church of England; and his familiarity, from his long residence abroad, with the French language, the native tongue of these Canadian Roman Catholics. The Rev. John Carroll was requested to accompany the party, to use his influence with the priests, in securing their neutrality in the contest between the colonies and Great Britain. The object of the commission was "to promote or form a union" between the Colonies and Canada.

American military operations, after the successes at Ticonderoga and Crown Point, had not been progressing favorably, and it was hoped a little diplomacy would put matters right, assure Canada that it was to her interest to join the Americans, who were fighting Canada's enemy in fighting Great Britain, and were ready to welcome with open arms the Northern province into their confederacy. Unfortunately, indiscreet politico-religious utterances of Congress had offended the French Canadians and rendered them distrustful of their new friends, while the exactions of the Continental soldiery, who with an insufficient commissariat and no money, were forced to forage on the natives for subsistence, widened the breach. In truth, Canada, so lately won from the French, and substantially a French community, had by the Quebec Bill of 1774 been given all that she could desire in the way of civil and religious liberty, and was without the grievances under which the thirteen Colonies were chafing. The interests of the French Canadians had been preferred over those of the British American, the colonists thought, and the Quebec Bill, as injurious in its effects on the

Colonies, was one of their acts of indictment against the English Crown.

Under these circumstances, the Canadian Commission had a difficult and delicate task before them. The journal of Charles Carroll of Carrollton, which gives in outline the details of the expedition, has been preserved; while the correspondence of the Commissioners with Congress, and with the generals operating in Canada, Thomas, Schuyler, Arnold, Thompson, and Wooster, picture the deplorable condition of the American troops, and convey a vivid impression of the annoyances and perplexities which confronted the Commissioners, and of the patience and tact required to surmount them. Arnold, who since the fall of General Montgomery in the assault on Quebec in December, had been keeping his ground with a small, undisciplined and ill-fed force, was superseded early in April by his ranking officer General Wooster, who, weak and incompetent, had remained in masterly inactivity at Montreal all the winter. And now he assumed to conduct the difficult siege of Quebec while Arnold took his place at Montreal where there was no enemy to contend with. It was at this juncture that the Commissioners were sent out to meet at least a partial need—where troops, "hard cash," and wise counsels were all in demand.

Following Charles Carroll in his itinerary we find he left New York with the rest of the party on a sloop the afternoon of April the 2d to take his leisurely way to Albany. The weather was bad and rainy the next day, and they had a storm that night.

On the 4th, says the journalist "just before we doubled Cape Saint Anthony's Nose, Mr. Chase and I landed to examine a beautiful fall of water. Mr. Chase very apprehensive of the leg of mutton being boiled too much, impatient to get on board; wind breezing up, we had near a mile to row to overtake the vessel." The beautiful scenery of the Hudson is described as they sail along; they had passed "opposite to Colonel Philip's, (a tory,)" on the 3rd. With Mr. Chase, Charles Carroll goes on shore to examine Constitution Fort, and from there they write a letter to General Heath at New York to tell him of the defenceless condition in which they find the fort. They have "a most glorious run" on the 6th and pass several country houses. Charles Carroll writes: "Vast tracts of land on each side of Hudson's River are held by the proprietaries or as they are here styled the '*Patrones*' of Manors. One of the Ransalaers has a grant of 20 miles on each side of the river. Mr. Robert R. Livingston informed me that he held three hundred thousand acres."

They landed at Albany early on the morning of the 7th and were met by General Schuyler, "who, understanding we were coming up, came from his house, about a mile out of town, to receive us, and invite us to dine with him; he behaved with great civility; lives in pretty style, has two daughters (Betsey and Peggy,) lively, agreeable black eyed girls." Carroll finds more houses in Albany than in Annapolis, and the people chiefly speak Dutch. They leave Albany early on the morning of the 9th and pursue their journey in a wagon, in company

with General and Mrs. Schuyler and their two daughters, and General Thomas. Charles Carroll leaves the wagon and with the two generals goes on horseback to see the falls of the Mohawk, about six miles from Albany. That evening they arrive a little before sunset at General Schuyler's country-seat, Saratoga, thirty-two miles from Albany. Bad roads and delays at the ferries, account for their slow progress. But the occasion is utilized by the observant and intelligent traveller, and he discourses with General Schuyler on the plan for "uninterrupted water-carriage between New York and Quebec"; the manner in which the great proprietaries of New York lease their lands, etc., and he is interested at Saratoga in the general's mills, one of which is on a new plan, of which he requests a model. "General Schuyler," he writes, "is a man of good understanding, improved by reflection and study; he is of a very active turn, and fond of husbandry; and when the present distractions are composed, if his infirm state of health will permit him, will make Saratoga a most beautiful and most valuable estate."

On the 11th the two generals left for Lake George, and the Commissioners set off from Saratoga on the 16th. The snow was six inches deep on the ground the day before. "I parted with regret," says Carroll, "from the amiable family of General Schuyler; the ease and affability with which we were treated, and the lively behavior of the young ladies, made Saratoga a most pleasing *sejour*, the remembrance of which will long remain with me." Partly by land and partly by water, our travellers

pursue their way, breakfasting with Colonel Allen at Fort Edward on the 17th. But hardly had they gone a mile from the fort when a messenger meets them, sent by General Schuyler to say that Lake George is not open. However, they reach Fort George on the 18th, and embark from there the next day, in company with General Schuyler. They drink tea on shore in Montcalm's Bay, land again at nightfall and build fires, but they have trouble in getting the boats through the ice, and after various attempts and delays, succeed in reaching the landing-place at the south end of Lake George.

Carroll writes April 21st: "I took a walk this evening to the saw-mill which is built on the principal fall of the river flowing from Lake George into Lake Champlain. . . A little to the northwestward of the saw-mill, on the west side of the river I visited the spot where Lord Howe was killed." Charles Carroll rides with General Schuyler over to Ticonderoga the next day, and views the works left there by the French in the last war. They remained all of the 23d at the landing-place, waiting for the boats to be made ready that were to take them through Lake Champlain. General Schuyler and his troops were busy getting the bateaux, cannon, etc., carted to the saw-mill to be embarked on Lake Champlain for their destination at St. Johns. Leaving the landing-place at Lake George on the 24th, they go by water to Ticonderoga, where they wait an hour to take in provisions, and reach Crown Point that afternoon, "with

the help of our oars only." They slept that night at a farmer's house in the neighborhood, leaving at five A.M. and breakfasting in a small cove near the Split Rock, while they dine on cold provisions at a house on shore, where they put in to avoid a gale of wind. Again taking to the boat, they are rowed seven miles down the lake to a point of land, not far from the islands called the Four Brothers.

"Mr. Chase and I slept this night on shore, under a tent made of bushes," the journalist records. This place Carroll calls "Commissioner's Point." So they continue their picturesque journey, which to the younger men, Chase and Charles Carroll of Carrollton, had no unwelcome flavor, doubtless, of novelty and adventure. At one time they land and breakfast "on tea and good biscuit." Then the rowing begins again, until they come to the island of La Motte. "We lay under this shore all night in a critical situation, for had the wind blown hard in the night, from the West, our boats would probably have been stove against the rocks. We passed the night on board the boats, under the awning which had been fitted up for us." They slept in the four beds they had brought with them from Philadelphia, and unless they had been thus provident they would have been forced on this voyage to lie on the bare ground or on planks. They breakfast on shore, at a tavern, the morning of the 27th and despatch a messenger to Montreal for carriages for themselves and their luggage. They stay the next day at Colonel Hazen's house and watch the bateaux of troops which arrive here

from Ticonderoga and go down the river to Chamblay. The next morning they leave Colonel Hazen's and cross over to St. Johns where carriages and carts meet them, and they set off for La Prairie, eighteen miles distant; never had they seen worse roads or worse conveyances. "From *La Prairie*," says the journal, "you go slanting down the river to Montreal," a passage of six miles. "The river where we crossed is filled with rocks and shoals, which occasion a very rapid current in some places." The arrival at Montreal is thus described:

"We were received by General Arnold on our landing, in the most polite and friendly manner; conducted to headquarters, where a genteel company of ladies and gentlemen had assembled to welcome our arrival. As we went from the landing place to the general's house, the cannon of the citadel fired in compliment to us as the Commissioners of Congress. We supped at that general's, and after supper were conducted by the general and other gentlemen to our lodgings, the house of Mr. Thomas Walker, the best built, and perhaps the best furnished in this town." [1]

On the 1st of May the Rev. John Carroll wrote home to his mother an interesting account of the journey, and of their reception at Montreal. "When we came to New York," he says, "it was no more the gay, polite place it used to be esteemed, but it was become almost a desert, unless for the troops." Of the passage of three days and a half on Lake

[1] Appendix B.

Champlain, he writes: "We always came to in the night time. Passengers generally encamp in the woods, making a covering of the boughs of trees, and large fires at their feet; but as we had a good awning to our boat, and had brought with us good beds and plenty of bed clothes, I chose to sleep aboard." Mr. Carroll tells of the greeting given them "by General Arnold and a great body of officers, gentry, etc.," and he adds:

"Being conducted to the General's house, we were served with a glass of wine, while people were crowding in to pay compliments; which ceremony being over, we were shown into another apartment, and unexpectedly met in it a large number of ladies, most of them French. After drinking tea and sitting some time, we went to an elegant supper, which was followed with the singing of the ladies, which proved very agreable, and would have been more so if we had not been so much fatigued with our journey. The next day was spent in receiving visits and dining in a large company, with whom we were pressed to sup, but excused ourselves in order to write letters, of which this is one, and will be finished and dated to-morrow morning." [1]

The first letter of the Commissioners to the President of Congress, of the same date as the foregoing, makes mention of some of the difficulties that met them at the outset, the want of specie, the need of more troops and the poorly paid condition of those in Canada, who were also suffering from smallpox. They write:

[1] American Archives, v., 1668; Brent's "Life of Archbishop Carroll," p. 40; "Life and Times of Archbishop Carroll," p. 149.

"It is impossible to give you a just idea of the lowness of the Continental credit here, from the want of hard money, and the prejudice it is to our affairs. . . The express we sent from St. John's to inform the General of our arrival there, and to request carriages for *La Prairie*, was stopped at the ferry till a friend passing changed a dollar bill for him into silver, and we are obliged to that friend (Mr. McCartney,) [McCarty ?], for his engagement to pay the calashes, or they would not have come for us. The general apprehension that we shall be driven out of the Province as soon as the King's troops can arrive, concurs with the frequent breaches of promise the inhabitants have experienced, in determining them to trust our people no further. . . . Therefore till the arrival of money, it seems improper to propose the Federal Union of this Province with the others, as the few friends we have will scarce venture to exert themselves in promoting it, till they see our credit recovered, and a sufficient army arrived to secure the possession of the country." [1]

The Commissioners were clothed with ample powers; to supervise the military operations in Canada, to compose disputes, and to administer discipline, suspending any officers, if deemed necessary, until the pleasure of Congress should be known. They were to negotiate with the Indians, and encourage the Indian trade, and they were to sit and vote in councils of war. The day after their arrival, March 30th, a council of war was held, the minutes of which they send to the President of Congress. It was there proposed to fortify the important post

[1] American Archives, v., p. 1166.

of Jacques Cartier between Montreal and Quebec; and to build six gondolas to carry heavy cannon, at Chamblay, of which place General Arnold was to have command. In the meantime the Commissioners directed the opening of the Indian trade, and they asked for £ 20,000 in specie from Congress to pay the debts then owing, and to form a fund for a bank they proposed to open for exchanging Continental bills.[1] They wrote to Congress again on the 6th of May, reiterating the urgent need for "hard money" to buy flour and other necessaries for the troops: "The want of money frequently constrains the commanders to have recourse to violence in providing the army with carriages, and other conveniences, which indispose and irritate the minds of the people. We have reason to conclude that the change of sentiments, which we understand has taken place in this colony, is owing to the abovementioned cause, and to other arbitrary proceedings." They advise if this specie cannot be sent, that the Americans should evacuate Canada, and fortify the passes on the Lakes, to prevent the enemy from invading the Northern colonies. The Commissioners also report that they had had an interview at Fort George with deputies from the seven Indian tribes of Canada, and since their arrival in Montreal had conferred again with these same deputies, receiving their promise of neutrality in the present contest, for which assurance a small present was made them, and a larger present is to seal the compact, "when the hatchet is delivered up."[2] Another

[1] *Ibid.*

[2] *Ibid.*, p. 1214.

letter went from the Commissioners to Congress on the 8th, with the same burden as the former ones. It had been expected by their friends in Canada that they would bring a supply of specie, whereas they had only been furnished with enough for their own expenses. The disappointment was great, and led to the opinion that none was to be had. The purses of those in sympathy with the Americans were drained dry, and the Tories would not trust them a farthing.

"Our enemies take the advantage of this distress to make us look contemptible in the eyes of the Canadians, who have been provoked by the violences of our military, in exacting provisions and services from them without pay, a conduct towards a people who suffered us to enter their country as friends, that the most urgent necessity can scarce excuse, since it has contributed much to the changing their good disposition towards us into enmity, and makes them wish our departure; and accordingly we have daily intimations of plots hatching and insurrections for expelling us on the first news of the arrival of the British army. You will see from hence that your Commissioners themselves are in a critical and most irksome situation, pestered hourly with demands great and small, that they cannot answer, in a place where our cause has a majority of enemies, the garrison weak, and a greater would, without money, increase our difficulties."

With a supply of money, the sinews of war, and a little success, the Commissioners think "it may be possible to regain the affections of the people, to attach them firmly to our cause and induce them to accept a free government, perhaps to enter into the Union." [1]

[1] *Ibid.*, p. 1237.

The threatened disasters were already at hand. Instead of a "little success," there came a decided reverse. General Thomas, who had been in command at Quebec since the 1st of May, and who had but a thousand men fit for duty, and only six days' provisions, was about to remove his artillery and stores up the river, when news came of the approach of British war ships, five of them appearing in sight on the morning of the 6th. The enemy landed a thousand men and six cannon, and attacked a force of two hundred and fifty Americans, the outposts of the garrison, who with one field-piece made but a short stand against such odds. The order for retreat was given, and the retreat became a rout, all the cannon falling into the enemy's hands, with small-arms, and two hundred of the sick in the deserted camp. Retreating towards Montreal, the discomfited command stopped first at Point Deschambault where General Thomas wrote a letter to the Commissioners on the 7th telling of the disaster.[1]

Early on the morning of the 10th the Commissioners received the news by word of mouth from Colonel Campbell, an officer of Thomas's army, and they wrote immediately to Congress and to General Schuyler. The latter was requested to send the supplies that were expected from Ticonderoga as speedily as possible to the troops in Canada; and those who had left Quebec were to make a stand at the mouth of the Sorel, on the St. Lawrence not far from Montreal.[2] General Schuyler had written to Franklin on the 2d. To Congress the Commissioners

[1] American Archives, vi., p. 451.

[2] *Ibid.*, p. 449.

wrote the same deplorable story. General Arnold was to go down to the Sorel that day to confer with General Thomas on the situation. "We are afraid," say the Commissioners, "it will not be in our power to render our country any further services in this colony."[1]

It was felt that the chief object of the Commission had certainly proved a failure, the effort to enlist the Canadians in the American cause, and there only remained the duty of looking after the wants of the troops. Doctor Franklin, whose age and infirmities made the hardships of the expedition sensibly felt by him, therefore resolved to return to Philadelphia with the Rev. John Carroll, and he left Montreal on the 11th, Mr. Carroll joining him on the following day. The other Commissioners in pursuit of the work now consigned to their sole charge, repaired at the same time to La Prairie.[2] Chase and Charles Carroll of Carrollton wrote from Montreal the evening of the 11th to Franklin and they also wrote to General Schuyler. To the latter they say:

"After the arrival of the brigade under General Thompson, we compute there will be about five thousand troops in Canada. We understand this brigade brings only ten days' provisions with them. . . . General Arnold leaves us this afternoon to go down to Deschambault, we cannot flatter ourselves with the keeping possession of that post. . . We are unable to express our apprehensions of the distress our army must soon be reduced to from the want of provisions, and the small-pox

[1] *Ibid.*, p. 449.

[2] Appendix B.

If further reinforcements are sent without pork to victual the whole army, our soldiers must perish, or feed on each other. Even plunder, the last resource of strong necessity, will not relieve their wants. . . . You will be pleased to communicate the present situation of affairs, and forward the enclosed papers to Congress." [1]

After arriving at La Prairie on the 12th, the two Commissioners wrote the following letter to General Thomas:

To Maj. General THOMAS.

LA PRAIRIE, May 12, 1776. 6 o'clk. P.M.

DEAR SIR: We are informed by Mr. Price that there is not water enough in Lake St. Pierre for a frigate to pass over with the guns and stores; he says that there is not even at this season of the year when the water is highest, more than fourteen and fifteen feet in the channel, which is very narrow. If this representation be just, our gondola ships, ere now at the mouth of the Sorrell may, perhaps prevent the enemies ships of war from coming higher up the river St. Lawrence than Lake St. Pierre. Fresh provisions and flour Mr. Price says may be had for specie, if authority should be exercised over those who having such provisions should refuse to part with them on the tender of a reasonable price in hard money. Mr. Price is also firmly of opinion that provisions of the aforesaid sort may be had in the country above the Sorrell sufficient to support an army of fifteen thousand men about six months.

You sir, are the best judge whether a stand may be made at the Sorrell and must certainly be well informed of the quantity of gunpowder we now have in Canada. If our military stores are adequate for the defense of the

[1] American Archives, vi., p. 481.

part of the country above the Sorel, and our forces should be judged capable of opposing the enemy, of whose numbers we hope you are by this time pretty well informed, we are clearly of the opinion that the present difficulty arising from the want of provisions may be surmounted by the specie now in the hands of Mr. Price, or by using force if a reasonable price should be refused. We think force regulated by proper authority not only justifiable in this case, but that it will prevent the horrors arising from the licentiousness of a starving and, of course, an uncontrollable soldiery.

It has been suggested to us by Mr. Price, that if we abandon Montreal and that side of the river from Berthier upwards, that it will be extremely difficult to keep possession of the country adjacent to the Sorel and between that river and the St. Lawrence even if we should [obtain ?] ten thousand men to defend it. Mr. Pricere commends the little river Berthier as the properest post to be taken on the north side of the St. Lawrence to prevent the enemy from coming on that side. The above intelligence and observations appear to us so material that we have thought it advisable to send off an express with this letter, to which we request your answer as soon as possible.

We are with great respect
Dear Sir
Your most obedient humble servants
SAMUEL CHASE,
CHARLES CARROLL OF CARROLLTON.

P. S. The depth of water in Lake St. Pierre may be ascertained by sounding.[1]

[1] MS: Letter, Dr. Thomas Addis Emmet, New York.

From the day of his arrival, the 29th of April, to May 11th, there had been no entry in Charles Carrol's journal. His time had been too fully occupied, doubtless, with the labors of his office and his correspondence. But he had now leisure for a little military expedition, of which he gives some account. He writes on the 13th: "I went to St. John's to examine into the state of that garrison, and of the batteaux. There I met with General Thompson and Colonel Sinclair, with part of Thompson's brigade. That evening I went with them, down the Sorel to Chamblay."[1] He describes Chamblay fort which had been taken from the British, and the capture of which had occasioned the taking of St. Johns. He writes on the 14th of his return to Montreal by La Prairie, and looking with a farmer's eye on the fertile land over which he passes, he tells of the large exports of wheat from the Sorel district, "the best part of Canada."

General Thomas wrote to the Commissioners from the "Three Rivers" on the 15th. Chase and Carroll write letters on the 14th and 17th to Congress, and to General Schuyler. They recommend Major Du bois to Congress for promotion. They enclose to General Schuyler letters from Arnold with "the latest intelligence" they had received from below, and they add:

"General Thompson and Colonel St. Clair sailed from this place yesterday for the mouth of the Sorel, which place we hope they reached last night. They intended to proceed to Deschambault immediately. . . . We

[1] Appendix B.

have been alarmed this morning with the approach of some Indians and soldiers from Detroit and the upper garrisons with a design to attack our post at the Cedars. We have detached one hundred and fifty men, commanded by Major Sherburne, to reinforce that garrison, already consisting of three hundred effective men. . . . For God's sake send pork and powder. You know we lost twenty barrels of the powder which lately came over the Lakes." [1]

The letter of the 17th to General Schuyler gives news just received, as to the condition of the British garrison at Quebec and the movements of the Americans. The latter had left Jacques Cartier and Deschambault, General Thomas was at Three Rivers with about a thousand men, and the Commissioners say of themselves:

"At present we procure a little fresh provisions. We intend to proceed to the mouth of the Sorel, where our army is collected. We have no fixed abode, being obliged to follow your example and become generals, commissaries, justices of the peace, in short to act in twenty different capacities. Things are in great confusion, but out of confusion we hope order will arise."

They make known their several wants: ammunition, powder, pork, a gondola built to carry a 24-pounder, etc., and they add: "Pray send back the batteaux in which Doctor Franklin and Mr. Carroll returned, and remember us most affectionately to them." [2]

"Dr. Franklin who left this place the 11th instant"

[1] American Archives, iv., 578. [2] *Ibid.*, p. 586.

(write the Commissioners to Congress on the 17th) "will give you the fullest information of the state of our affairs in this Province. We are sorry to say they have not mended since the Doctor's departure." The letter proceeds to furnish some details of the confusion and disorder; the troops living from hand to mouth; the three months' men going home; the need of contractors and commissaries. "Your Generals," they say, "are now obliged to be contractors and commissaries, and your Commissioners, who have neither abilities nor inclination, are constrained to act as Generals." They go on to give instances of the want of proper discipline among both officers and men.

"The importance of this Colony will be made known to you by Doctor Franklin. . . . The Indian trade is an object already sufficient to engage the attention of the Colonies, and growing yearly of more importance. The inclinations of the common people are said to be in general with us, but they are timorous and unsteady; no assistance can be expected from them unless they find themselves supported by an army able to cope with the English forces."

The Commissioners excuse themselves for exceeding their powers by appointing Mr. William McCarty Deputy Quartermaster-General, as the public good requires it. And they add in conclusion:

"In the present situation of our affairs it will not be possible for us to carry into execution the great object of our instructions, as the possession of this country

must finally be decided by the sword. We think our stay here no longer of service to the public. We are willing, however, to sacrifice our time, labour, and even our lives, for the good of our country ; and we wait with impatience the further orders of Congress."[1]

General Arnold had written to the Commissioners on the 17th of May from Sorel, and General Thomas on the 20th,[2] but now the Commissioners were to go themselves to the camp, there to look into the condition of things, and Charles Carroll resumed his journal at this point. On the 21st of May he writes: "This day Mr. Chase set off with me for the mouth of the Sorel." They embarked on a bateau from Montreal, and when the wind was against them took post. At La Nore they got into a canoe and were paddled down the St. Lawrence the remaining nine miles. The journal says: "In going from *La Nore* to the mouth of the Sorel, we passed by Brown's battery (as it is called), although it never had a cannon mounted on it. To this battery without cannon, and to a single gondola, ten or twelve vessels under the command of Colonel Prescott surrendered." This was accomplished by a clever ruse of the American Major, which the journal details. Carroll adds: 'We found the discipline of our camp very remiss, and everything in confusion. General Thomas, who was ill of the small pox, had but lately resigned the command to Thompson, by whose activity things were soon put on a better footing."[3]

On the 22d the Commissioners left the camp for

[1] *Ibid.*, p. 587, 588. [2] *Ibid.*, 592. [3] Appendix B.

Chamblay on the Sorel River, which place they reached the following morning, having made the journey by land. They had in the meantime ordered a detachment under Colonel De Haas to reinforce General Arnold, and together these two commands were to drive off the force of British and Indians, who had taken the post at the Cedars, and were advancing on Montreal. At Chamblay the Commissioners found the same confusion and disorder as at Sorel, and the Americans without credit and without money. They had to advance some silver coin to pay for the carriage of three barrels of gunpowder down the river, the officer in charge of the guard not having a shilling. They returned to Montreal that evening, and De Haas's detachment arrived the next day, marching out on the 25th to join General Arnold at La Chine. "They were detained," writes Carroll, "from want of many necessaries which we were obliged to procure for them, General Wooster being without money, or pretending to be so." [1]

Chase and Carroll wrote a note to General Wooster on the 25th of May desiring him to forward a communication for them "by the Express to St. Johns," which they presume he will send off. They add: "Unless immediate steps are taken to procure provisions for the Army, the Soldiers must starve or plunder the Inhabitants. It is a Duty incumbent on our Generals to prevent such a dreadful scene by every means in their power." [2]

The President of Congress wrote to the Commissioners on the 24th, General Thompson and General

[1] *Ibid.* [2] MS : Letter, Simon Gratz, Philadelphia.

Thomas wrote to them on the 25th, and General Arnold on the 27th.[1] The following is the reply of Chase and Carroll to the letter of General Thomas. The latter, unfortunately, fell a victim, soon after, to the dread disease from which he was then suffering.

MONTREAL, May 26th, 1776.

SIR:

We are favored with yours of yesterday from Chamblay. We went to Sorel on purpose to learn the condition of our army and to know the sentiments of the general officers respecting the future operations of the campaign. We expected to have had the pleasure of meeting with you there. On our way to Sorel we were informed of your being taken ill with the small-pox, and that you had left the camp. We hoped to have found you at Chamblay, and to converse with you on the state of our affairs in this country was the principal end of our journey thither; unluckily we passed you on the road.

In the present situation of the army, we think it would be impracticable to occupy and fortify the posts of Deschambault and Jacques Cartier. We are sorry to find so little discipline in the army, and that it is so badly provided in every respect. We have sometime since written pressingly to Congress for hard money, without which we believe it impossible to relieve our wants. The most immediate and pressing necessity is the want of flour. We have advised General Wooster to issue an order to the town major to wait on the merchants or others having provisions or merchandise for sale and request a delivery of what the soldiers are in immediate want of, and pledge the faith of the United Colonies for payment; and have given it as our opinion, that on refusal,

[1] American Archives, vi., 558, 593, 596.

our necessity requires that force should be used to compel a delivery.

We have advised the General to issue a similar order to Messrs. Price and McCarty. The General has complied with our advice in both instances, and yesterday evening dispatched an express to St. Johns with a letter to those gentlemen. We wrote to them by the same opportunity our sentiments. Flour is not to be procured in any considerable quantity on this island. Unless immediate steps be taken to secure large quantities of wheat, and have it ground up into flour with the utmost dispatch, the army will be reduced to the greatest straits for want of bread. We most earnestly intreat you to turn your attention to this matter, and to use all the means which your prudence will suggest to procure flour for the troops. None is to be expected, at least for some time, from over the lakes. Our soldiers will be soon reduced to the dreadful alternative of starving, or of plundering the inhabitants ; the latter will surely happen if our troops should not be supplied with bread in a regular way.

Their other immediate wants may in some measure be relieved by compelling a delivery of some goods on the same terms with wheat and flour. This, however, we confess a violent remedy, which nothing can justify but the most urgent necessity, and therefore cannot be long pursued without drawing on us the resentment of the inhabitants. In short, sir, without a speedy supply of hard money it appears to us next to impossible to remain in Canada, even if we had no enemy but the inhabitants to contend with.

We have already mentioned the bad discipline of the army. It is no doubt in a great measure owing to the cause assigned in one of your letters, the short enlistments. But there appear to us other causes ; the officers

are not sufficiently active, nor do they seem actuated by those disinterested principles and generous sentiments which might be expected from men fighting in so just and glorious a cause. We would not be understood to cast a general reflection. There are many officers, we are satisfied, who act upon the noblest motives, but it gives us pain to assert on the best information, that there are several whose conduct has too plainly proved them unworthy of the character and trust conferred on them by their countrymen. We have mentioned our sentiments with freedom. We shall always give our opinions with the same ; we mean not to dictate but to advise with you and the general officers on the most effectual ways and means of extricating ourselves from our present difficulties and promoting the general service.

As by this time the virulence of your disorder we hope is abated, we recommend a meeting of the general officers at Chamblay to consult about, and agree upon the future operations of the war in Canada. The enclosed copy of General Arnold's last letter will give you the best intelligence respecting the affair at the Cedars, and the actual state of the enemy, and our forces on this island. Col. De Haas marched yesterday evening from this town at six o'clock, with 400 men to La Chine. We flatter ourselves we shall drive the enemy off the island, redeem our prisoners, and recover our post at the Cedars. We are with sincere wishes for your speedy recovery, Sir,

Your most obedient humble servants

SAMUEL CHASE,

CH. CARROLL OF CARROLLTON.

Major General THOMAS.[1]

[1] Sparks MSS :, Harvard College Library.

The last letter of the Commissioners to Congress was written from Montreal on the 27th of May, in which they sum up the woes of the army: without meat, bread, tents, shoes, stockings, shirts; and out of the four thousand men, four hundred sick with different disorders.

"We cannot find words strong enough, to discribe our miserable situation; you will have a faint idea of it, if you figure to yourself an army broken and disheartened, half of it under inoculation, or under other diseases; soldiers without pay, without discipline, and altogether reduced to live from hand to mouth, depending on the scanty and precarious supplies of a few half-starved cattle, and trifling quantities of flour which have hitherto been picked up in different parts of the country."

The Commissioners inform Congress that they had induced General Wooster not to take command at Sorel, when General Thomas upon being taken sick with smallpox, had written for him. And they state plainly their sentiments as to this officer's incompetency: "General Wooster is, in our opinion, unfit—totally unfit—to command your army, and conduct the war. We have hitherto prevailed on him to remain in Montreal. His stay in this Colony is unnecessary, and even prejudicial to our affairs. We would therefore humbly advise his recall."[1]

The time was now at hand when they were at liberty themselves to leave this discouraging theatre of action, these impromptu generals, commissaries, contractors, and justices of the peace. They had

[1] American Archives. vi., 589.

recommended, as we have seen, a council of war at Chamblay to decide on the future campaign, and Charles Carroll says in his journal that they left Montreal at three o'clock on the afternoon of the 29th to attend this council. It was held on the 30th and the decision was to "maintain possession of the country between the St. Lawrence and Sorel, if possible; in the meantime to dispose matters so as to make an orderly retreat out of Canada." [1]

The Commissioners visited St. Johns the next day, General Sullivan having arrived there the night before with fourteen hundred men. Chase and Carroll sailed from St. John's June 1st, on their way back to Philadelphia, arrived at Crown Point on the evening of the 3d, and rowing all night, reached Ticonderoga at one in the morning, where they were welcomed by General Schuyler. [2]

The Rev. John Carroll wrote from Philadelphia, June 2d, to his cousin Charles Carroll, senior, giving the latter the news from his son. He tells of having just arrived two days before, with Doctor Franklin:

"Cousin Charles and Mr. Chase left Montreal with me on the 12th of May, that they might not be in any danger from a frigate running up the river, and getting between them and the eastern shore of St. Lawrence. As Doctor Franklin determined to return to Philadelphia on account of his health, I resolved to accompany him, seeing it was out of my power to be of any service after the Commissioners had thought it advisable for them to leave Montreal. Your son and Mr. Chase proposed staying at

[1] Appendix B. [2] *Ibid.*

St. John's or in that neighborhood, till they should know whether our army would keep post at De Chambeau [Deschambault] ; and the former desired me to give you notice of his being safe and well. . . . When I left him he expected to follow us in a few days ; but Mr. Hancock tells me that if an express sent some days since from Congress reaches them before they have left Canada, he is of opinion they will continue there for some time. I shall set out from hence, next week and propose doing myself the pleasure of calling at Elkridge. My affectionate and respectful compliments to Mrs. Darnall and Carroll, with love to Polly. Nothing new from Canada, nor indeed any advices at all since we left it. Great divisions here between the contending parties. . . . Ten tons of powder, five hundred small arms came in yesterday. Cousin Charles received large packets of letters from you a few days before we left Montreal." [1]

Charles Carroll, continuing his journal, tells how he and Mr. Chase set off with their friend General Schuyler at five on the morning of the 4th hauling their bateaux "over the carrying place at Skeenesborough into Wood Creek." They stop to admire the saw-mill, grist-mill, and forge built by Major Skeene, row up Wood Creek ten miles, and then lie all night on board the boat. They are off again by three o'clock the next morning, rowing up the serpentine, and winding river or creek, and at one place obliged to land where the trees and brushwood have been piled across the water, while the crew carry the boat through the narrow channel that is open. Carroll walks, with General Schuyler as his

[1] Maryland Historical Society's "Centennial Memorial," p. 109.

companion, seven miles when they meet horses sent forward for them. They dine at a house two miles farther on, and ride after dinner to Fort Edward, four miles. "Mr. Chase joined us this evening," says the journal, "he took the lower road, and was obliged to walk part of the way." They separated from General Schuyler the next day, as he was obliged to return to Fort George, and rode on to Saratoga, "but did not find the amiable family [the Schuylers] at home."

Here they waited all day for their servants and luggage, and on the morning of the 7th were off again, taking a boat on the Hudson for Albany, which place they reached at half past five, and in half an hour they were on a sloop which was just ready to sail for New York. They arrived in the latter city without further adventures at one P. M. on the 9th where the journal says: "Waited on General Washington at Motier's;—saw Generals Gates and Putnam, and my old acquaintance and friend, Mr. Moylan. About six o'clock in the evening got into General Washington's barge, in company with Lord Sterling, and was rowed round by Staten Island and the Kilns, within two miles of Elizabeth-town, where we got by ten at night."[1] They reached Philadelphia by boat at two o'clock in the night of June 10th. And so ended this interesting and laborious episode in Charles Carroll's public career. General Washington sat down on the 10th, after parting with the Commissioners, and wrote to the President of Congress:

[1] Appendix B.

"Since I did myself the honour of writing to you yesterday, I have had the satisfaction of seeing, (and for a few minutes conversing with,) Mr. Chase and Mr. Carroll, from Canada. Their account of our troops, and the situation of affairs in that department, cannot possibly surprise you more than it has done me. But I must not touch upon the subject, which you will be so well informed of from the fountain head." [1]

The Journal of Congress records that on June 11th "Mr. Chase and Mr. Carroll of Carrollton, two of the Commissioners being arrived from Canada, attended and gave an account of their proceedings and the state of the army in that country," and on the same day Doctor Franklin laid before Congress an account of his expedition to Canada. The next day the Commissioners sent in their formal report in writing, but this document, unfortunately, has been lost.[2]

While still in Philadelphia, attending the debates of Congress, and resting from the fatigues of his long journey, Charles Carroll wrote the following letter to General Gates, who it was believed would succeed to the command in Canada. He had just seen Gates in New York, and he now gives him, with becoming modesty, but with the confidence of trained and careful observation, his views as to future military operations in the General's proposed new field of action. However, with the defeat of General Sullivan, the Americans were forced to abandon Canada altogether, and the "success" of

[1] Ford's "Writings of Washington," vol. iv., p. 129.

[2] Maryland Historical Society's "Centennial Memorial," p. 37.

General Gates was reserved for the gallant day of Saratoga.

PHILADELPHIA, June 14, 1776.

DEAR SIR :

As you will probably be appointed to the chief command in Canada, I take the liberty to suggest the following hints. Your better judgment and experience, and future knowledge of the country, will enable you to determine whether they are worthy of your attention. However, as they may possibly be of some service, I will hazard them, being convinced your good-nature will put the most favorable construction on my observations.

Various are the reports concerning the number of troops to be employed against us in Canada. Notwithstanding it has been given out that Burgoyne is to command ten thousand, I much question whether our enemy's force will exceed four. If this should happen to be the case, our present army in Canada is sufficient, when recovered of the small-pox, and from the confusion which bad discipline, want of provisions and other necessaries, and the checks it has met with, have occasioned, to resist the enemy, and keep possession of that part of the country lying between the Sorel and the St. Lawrence, and above Montreal on each side of the St. Lawrence. The enemy's armed vessels will not be able to go higher up the St. Lawrence than Montreal. Above that city, the vessels which they may use will not be an overmatch for such vessels as we may have on the St. Lawrence, above Montreal.

If we can repossess ourselves of the Cedars, and fortify it so as that the enemy will not be able to force that post, without running the risk of losing a great number of men, it is probable that we shall cut off their com-

munication with the Indian tribes, and deprive them of the Indian trade. Will it not be proper to send a body of forces up the Mohawk River, and to Detroit, to make a diversion, and to give employment to the Eighth Regiment posted there, and at the different garrisons in what is called in Canada, the upper country? In keeping possession of the Sorel, and adjacent country, we shall deprive the enemy of large supplies of wheat, for in that part the most wheat is made. It is a woody country, and by intrenching, making abbaties, breaking up the roads, harassing the enemy on their march, and reducing the campaign to a war of posts, in forcing of which they will lose many men, we may probably keep a footing in Canada this summer and fall.

Toward the middle of October, a strong reinforcement (of ten thousand men if they can be spared) should be sent into Canada, well provided in every respect. This body, joined to our other forces will probably compel the enemy to retire into, or under the walls of, Quebec. In that case, the passes of Jacques Cartier and Deschambault, should be instantly secured, and the latter so well fortified, as to render the enemy's passage, next spring, through the falls of Richelieu impracticable.

Their shipping will be obliged to fall below Deschambault, by the latter end of October. If by fortifying the eminences at Deschambault, and obstructing the navigation, by which means the enemy's vessels should be prevented from coming up the St. Lawrence, next spring and summer, we may keep possession of all that part of Canada lying above Deschambault, the country below it is not worth holding. Good use must be made of the fall and winter in constructing gondolas, and, if necessary, a 36 gun frigate to be employed above the falls of Richelieu. This frigate and the gondolas, will serve

to obstruct the enemy's vessels attempting to come through the falls of Richelieu, and may give us the entire command of the river St. Lawrence above those falls. Should this happen the enemy must have next year a very strong army indeed to reduce Canada, as their march by land on the north side of the St. Lawrence would be rendered dangerous and difficult, through a woody country intersected by several large rivers, in passing which they might be opposed with great advantage, by our shipping and land army acting in conjunction.

I beg your suspicions of Gen. Schuyler may not prejudice you against him. See with your own eyes, and all your suspicions will vanish. I am confident that you will judge very differently of him on acquaintance, and that you will find him a diligent, active and deserving officer. I hope a good understanding may subsist between you, as it will promote the service. God grant you success and health. My respectful compliments to Gen. Washington, and remembrances to Gen. Mifflin and my friend Moylan.

I am etc.

CH. CARROLL OF CARROLLTON.[1]

[1] Sparks MSS: Harvard College Library.

CHAPTER VI.

A CONSTITUTION MAKER.

1776–1777.

THE Maryland Convention met in Annapolis, May 8th, 1776, while Charles Carroll of Carrollton was in Canada, Anne Arundel County being represented by Charles Carroll, barrister, and Thomas Johnson. They passed the following resolution, among others, to be sent to the Maryland delegates in Congress:

"That as this Convention is firmly persuaded that a reunion with Great Britain on constitutional principles would most effectually secure the rights and liberties, and increase the strength and promote the happiness of the whole empire, objects which this province hath ever had in view, the said deputies are bound and directed to govern themselves by the instructions in its session of December last, in the same manner as if the said instructions were particularly repeated." [1]

This resolve precluded the Maryland delegates from concurring in any movement for independence, and was heard of with dismay by Carroll and

[1] Journal of the Convention.

Chase, and other members of the advanced party. A new Convention, however, was called to meet the 21st of June, and Samuel Chase was in his seat on that day, Charles Carroll of Carrollton appearing in the house on Monday, June 24th. Four days later, June 28th, the Convention,—

"Resolved, that the instructions given by the Convention of December last (and renewed by the Convention in May) to the deputies of this Colony in Congress be recalled, and the restrictions therein contained removed; that the deputies of this Colony attending in Congress, or a majority of them, or any three or more of them, be authorized and empowered to concur with the other united Colonies, or a majority of them in declaring the United Colonies free and independent States, provided the sole and exclusive right of regulating the internal government and police of this Colony be reserved to the people thereof." [1]

On the 3d of July a resolution was passed in reference to the election of a new Convention for the purpose of framing a form of government, and on the 4th, delegates were elected to Congress. These were Matthew Tilghman, Thomas Johnson, William Paca, Samuel Chase, Thomas Stone, and Charles Carroll of Carrollton. On the 6th of July the Convention adjourned, after giving to the people, "A Declaration of the Delegates of Maryland" which recited the wrongs sustained by the Colonies, and stated the necessity for a separation of Maryland from the mother country, the King of Great Britain having "violated his compact with this people,"

[1] *Ibid.*

And the Maryland deputies in Congress were empowered to join with those of the other Colonies "in declaring them free and independent States, in framing such other Confederacy between them, in making foreign alliances, and in adopting such other measures as shall be judged necessary for the preservation of their liberties, etc." [1]

The important resolve of the 28th of June, which placed Maryland in line with her sister colonies on the subject of independence, is attributed to Charles Carroll of Carrollton.[2] "Principally instrumental in obtaining the passage of this resolution," says McSherry, "was Charles Carroll of Carrollton," and he adds that, "as a reward for his labors in behalf of the measure in Convention, he was on the 4th of July chosen a delegate to Congress." [3]

Carroll and Chase were just from Philadelphia and they had been able to sound the temper of the other Colonies, as expressed by their delegates, and knew that public opinion was ripe for the formal avowal of a separation which already had a *de facto* existence. Maryland's nearest neighbor south of the Potomac, the Old Dominion, had early made her splendid record, under the leadership of Mason, Henry, and the Lees, as the first of the Colonies to declare herself a sovereign State, and Maryland's impatient patriots could brook no longer delay. Samuel Chase wrote from the Convention on the 29th of June to Richard

[1] Ridgeley's "Annals of Annapolis," p. 177. Riley's "History of Annapolis," p. 180.

[2] Scharf's "History of Maryland," vol. ii., p. 231.

[3] McSherry's "History of Maryland," p. 195.

Henry Lee, then in Williamsburg: "I cannot but envy our older sister, Virginia, for having adopted this wise and salutary measure before us. I shall endeavor to procure a new Convention before we establish a new Government. Be pleased to communicate to me the plan proposed in your Colony."[1]

From the Convention the Maryland delegates hastened back to Congress, carrying with them, among their new members, Charles Carroll of Carrollton who took his seat in this distinguished body on the 18th of July, 1776. The following day, the Declaration of Independence, passed on the 4th of July, was ordered to be engrossed on parchment, and August 2d it was signed by those then present, and it was on this day that Charles Carroll of Carrollton put his signature to this world-renowned instrument.[2] The story often repeated and as often denied, that Charles Carroll added "of Carrollton" to his signature, when jestingly reminded by one of his colleagues that there were others of his name in Maryland, and he would therefore incur little risk, though a pretty legend is, of course, not tenable as history. It has been seen that Charles Carroll had signed himself as "of Carrollton" from the time of his return to America in 1765. He wrote to his friend Edmund Jennings soon after his arrival in Maryland, using this signature, and saying "by which appellation, if you favor me with an answer, direct to me your letter."[3]

[1] MS.: Letter, Lee Papers.

[2] *The Truth-Teller*, New York, 1827, Article on Charles Carroll of Carrollton.

[3] *Appleton's Journal* September 12 1874.

In his letter to Mr. Sprague of 1830, he says he took the surname to distinguish him from his father.

The Carroll entries in the Land Office from 1765 to 1773 distinguish those of the same name, as "Charles Carroll of Elk Ridge" [Doughoregan Manor], or "Charles Carroll, Esq.," "Charles Carroll of Carrollton," "Charles Carroll, barrister-at-law," and "Charles Carroll the Younger" (of Duddington Manor). The last died in 1773 leaving three Charles Carrolls prominent in Maryland in 1776. In the biographical sketch of Charles Carroll of Carrollton written by John H. B. Latrobe, eight years before the death of Mr. Carroll, and submitted to him for inspection, there is no mention of the above anecdote, though the other story that usually goes with it is related. John Hancock, the President of Congress, after the Declaration had been placed upon the Secretary's desk, while in conversation with Charles Carroll of Carrollton, said to him "Will you sign it?" "Most willingly," was the prompt reply, and as he made his signature, a member standing near observed "There go a few millions," and all admitted that few risked as much, in a material sense, as the wealthy Marylander.[1]

Charles Carroll had been appointed, on the 18th of July, the day he took his seat, one of a committee of three, to examine and report on some intercepted correspondence from Lord Howe to the colonial governors, including Dunmore of Virginia and Eden of Maryland. On the 19th, he was appointed on the Board of War, increasing its number to six. The

[1] Sanderson's "Lives of the Signers," vol. vii., p. 257.

Committee of Congress, elected the 12th of June, 1776, which went under the name of the Board of War and Ordnance, as originally constituted, consisted of five members, John Adams, Roger Sherman, Benjamin Harrison, James Wilson, and Edmund Rutledge. Richard Peters was the Secretary of the Board. They were entrusted, under the general direction of Congress, with all the executive duties of the military department. They were to forward despatches from Congress to the armies in the field, or to the Colonies; to superintend the raising, fitting out, and despatching the forces; to keep a roster of all the officers in the Continental Army, their rank and dates of commissions; to have charge of the military provisions, and to keep an account of them, and of the artillery stores.

The Board of War was to enter into books copies of all their correspondence and despatches, and a seal was adopted by them for official purposes.[1] It will be seen that this committee had arduous duties to perform, and the Journals of Congress show that the most important matters were being continually referred to it. John Adams, the Chairman of the Board, thus mentions in his autobiography the appointment of Carroll:

"Thursday, July 18. Resolved, That a member be added to the Board of War. The member chosen Mr. Carroll. An excellent member whose education, manners, and application to business and to study, did honor to his fortune, the first in America."[2]

[1] Journal of Congress, 1776.

[2] Works of John Adams, vol. iii., p. 60.

Charles Carroll's information as to military affairs, and the state of the army in the North, derived from his Canadian mission, would naturally recommend him for this important committee. And one who knew of what he was speaking says that, "during the investigation by the Board of the disputes arising out of the Canada expedition, and in the consideration of the movements of the army in the North, the local knowledge which Mr. Carroll had acquired in his late journey, together with his acute observations upon the state of the country, and the character and disposition of the people, were of important service."[1] That there is no mention of Charles Carroll of Carrollton in the meagre Journal of Congress from July 19th to the close of his stay, during this session, August 14th or 15th, proves only, therefore, that he was too closely occupied on the Board of War to undertake other duties. Letters and despatches were continually coming before him, as they were referred by Congress to the Board of War, and every few days he united with his colleagues in a report which was sent to Congress, and considered by them in Committee of the Whole.

On the 4th of July the adoption of the Declaration of Independence was not the only event of the day. More prosaic business occupied the attention of Congress during part of this time, and they resolved, among other things,

[1] *The Truth-Teller*, New York, 1827, Article on Charles Carroll of Carrollton.

"That the Board of War be impowered to employ such a number of persons as they shall find necessary to manufacture flints for the continent, and for this purpose to apply to the respective Assemblies, Conventions, and Councils or Committees of Safety of the United American States, or committees of inspection of the counties and towns thereunto belonging, for the names and places of abode of persons skilled in the manufactory aforesaid, and of the places in their respective States where the best flint-stones are to be obtained, with samples of the same." [1]

It is to this subject that the following letter of the Maryland delegates, Chase and Carroll, to the Maryland Council of Safety, has reference.

PHILADELPHIA, July 27, 1776.

GENTLEMEN:

Col. Smallwood, apprehending his battalion would be in want of many necessaries at the camp, applied to us for a sum of money, and we advanced him $1,335, for which he is to be accountable to the Convention of Maryland. We hope this advance will meet with your and their approbation, as not much can be expected from soldiers badly provided, and such is the discretion and economy of Col. Smallwood, that we are persuaded he will make a very judicious application of this money.

The Congress has allowed a regimental paymaster to each battalion in the Flying-Camp, the appointment of which officer is left to the several States from which these battalions come. In the recess of our Convention the appointment is in you, and we beg you may appoint one as soon as may be. Col. Smallwood recommended

[1] Journal of Congress, 1776.

to us for this place, Mr. Christopher Richmond. We mention this circumstance because we know the appointment of Mr. Richmond will be very agreeable to the Colonel.

There are now lodged in Mr. Shries's house fifty odd muskets, lately imported for the use of our State ; they want repairing and cleaning. We submit it to you whether we shall not keep these muskets here, to arm in part one of our militia companies passing through this city, and on its way to the Flying-Camp ; this will save the expense and trouble of sending them to Maryland. We are informed that there are large quantities of flint stones at the landings on Wye and Choptank Rivers ; these were brought by the ships as ballast, and thrown out on the banks. The Congress has desired us to write to you on the subject, and to procure some person who understands flints, to look after them, and to report to Congress, whether they are good or not.

We have nothing new from New York ; the post is not yet come in. We heard from General Washington yesterday ; all was quiet. The ten vessels mentioned in the papers appearing in the offing at New York brought over Highlanders ; how many we know not. As the harvest is now over, we imagine the militia will come in fast to compose the Flying-Camp ; and we hope the Maryland militia will march with all possible expedition.

We are, with regard, gentlemen, your most obedient, humble servants

SAMUEL CHASE.
CHARLES CARROLL OF CARROLLTON.

To the Hon. the Council of Safety
at Annapolis.[1]

[1] American Archives, vol. i., p. 618 ; Maryland Archives, vol. xii., p. 129.

The new Convention appointed to frame a form of government for the State of Maryland, met in Annapolis, August 14th, 1776. William Paca and Charles Carroll of Carrollton were the delegates elected to represent Annapolis, and on the 17th of August Charles Carroll, who had recently arrived from Philadelphia, took his place in the Convention. The resolution of Congress declaring the United Colonies free and independent States, was the first subject brought up for consideration, and a resolve was passed, "That this Convention will maintain the freedom and independency of the United States with their lives and fortunes."[1] A committee of three was then appointed, of which Charles Carroll of Carrollton was one, to examine into and report upon the state of the loan office.

On the election of the members of the committee who were to prepare a Declaration of Rights and Constitution, the President of the Convention, Matthew Tilghman, headed the list; and after him came Charles Carroll, barrister, William Paca, Charles Carroll of Carrollton, George Plater, Samuel Chase, and Robert Goldsborough. These were among Maryland's choicest spirits. Four of them had been elected to Congress, and of these, three had just signed the Declaration of Independence. The others had held high places in colonial Maryland and were to associate their names thereafter with her Revolutionary history and genesis as a sovereign State. Thomas Stone, who had remained in Congress, and represented Maryland's interests

[1] Journal of the Convention.

there, sent a letter to the Convention on the 21st of August with resolutions of the former body passed on the 26th of June and 17th of August, and a committee appointed by the Convention to consider them, consisted of Col. William Fitzhugh, George Plater, and Charles Carroll of Carrollton.

The Declaration of Rights was brought in from the committee to the Convention, by George Plater on the 27th of August. And on the same day, Charles Carroll, barrister, and two of his colleagues from Anne Arundel County, Brice Thomas Beale Worthington and Samuel Chase, asked leave to resign from the Convention, as there were points in the plan of government to which, by their instructions from their constituents, they could not accede. Worthington and Chase were subsequently returned as delegates, but Barrister Carroll was not re-elected, very probably at his own desire, and November 19th he took his seat in Congress.

On the 17th of September, the last day of the Convention, it was voted that the members of Congress present should return to their post of duty. Johnson, Chase, and Paca had already left the Convention several days before. The Bill of Rights and Constitution were referred to a future session of the Convention, after a motion had been adopted to print them and send twelve copies to each county. And when Col. Fitzhugh had brought in his report from the committee to consider the resolutions of Congress, the Convention adjourned.

The Maryland Convention met again on the 2d of October, to perfect their work on the State Con-

stitution, having allowed their constituents time to examine into the merits of the proposed plan. Charles Carroll of Carrollton was present on the roll-call. On the 4th of October he was placed on a committee, with Samuel Chase, William Paca, and others, to prepare a scheme for the emission of bills of credit, to enable the State to carry on its defence against British invasion. A letter from Congress, containing its resolves as to the disposition of troops and appointment of officers, was laid before a committee of seven, which included the Maryland delegates to Congress who were present, Chase, Paca, and Charles Carroll of Carrollton.

Thomas Johnson was added to the committee on his arrival from Philadelphia, October 7th, and the reports of the two committees were brought in the following day. The Convention resolved itself into a Committee of the Whole, from day to day, to consider and discuss the Declaraton of Rights and Constitution. On Friday, the 28th as the journal records, Charles Carroll had leave of absence till the following Wednesday, "on account of the indisposition of his family."[1] But he was in his place again on Sunday, the 30th, the Convention meeting on the Lord's Day, a practice kept up by the Maryland legislators, one is surprised to see, sometime after there was any ostensible need for it.

Resolutions not very friendly to her "older Sister, Virginia," were passed by the Convention on the 30th, and Maryland here, unfortunately, placed herself in the position of opposing the charter rights of a

[1] Journal of the Convention.

colony, the basis of those State Rights so important to herself and to all members of the Confederation, the "United States." On the 31st the Bill of Rights was reported, and as amended by the Convention was agreed to on the 3d of November. The Constitution was taken up the following day, and fully discussed, amendments being suggested by Jeremiah Townley Chase, Samuel Chase, Col. William Fitzhugh, Thomas Johnson, and others, until the 8th, when it was adopted, and the Convention adjourned November 11th.[1]

The journals of public bodies in those early days, give for the most part, but the skeleton framework of their proceedings, which must be filled out, wherever possible, by private and personal records. The descendants of the constitution-makers of the thirteen Colonies, and all inquiring students of early American institutions, desire to know as much as is attainable as to the authorship of these charters, and all obscure sources of information are eagerly searched for and scanned in the hope of discovering the data sought. McMahon, writing in 1831, after mentioning that Thomas Johnson and Robert Hooe took the places on the committee appointed to frame Maryland's Declaration of Rights and Constitution vacated by the resignation of Samuel Chase and Barrister Carroll, and that Chase though re-elected to the Convention did not take his seat again until the day on which the committee reported, adds: "The form of government and Bill of Rights so reported, were but slightly altered in their passage

[1] *Ibid.*

through the Convention. We know not by whom they were drafted; nor whether they were the production of any particular member or members of the Committee." [1]

It has subsequently been asserted that Charles Carroll, barrister, drafted the Declaration of Rights,[2] though he did not see it through its several stages in the committee and in the Convention. This gentleman, a graduate of Cambridge and a student of the Temple, in legal learning and statesman-like accomplishments was not surpassed by any of his associates. With whom originated the first draft of the Maryland Constitution, if it was the design of any one person, history has not yet informed us, but one, and that the most unique feature of this "form of government," Maryland owed to Charles Carroll of Carrollton. This was in relation to the composition of the Senate, or the manner of electing its members. Of his service in this respect, Charles Carroll wrote to a friend in 1817:

"I was one of the Committee, that framed the Constitution of this State, and the mode of chusing the Senate was suggested by me; no objection was made to it in the Committee, as I remember, except by Mr. Johnson, who disliked the Senate's filling up the vacancies in their own body. I replied that if the mode of chusing Senators by Electors were deemed eligible, the filling up vacancies by that body was inevitable, as the Electors could not be convened to make choice of a Senator on every vacancy,

[1] McMahon's "History of Maryland," p. 437.
[2] Hanson's "Old Kent," p. 147.

and that the Senate acting under the sanction of an oath and *l' esprit de corps*, would insure the election of the fittest men for that station, nor do I recollect while I was in the Senate, that the power intrusted to it in this instance was ever abused and perverted to party views. I do not remember, at this distance of time, whether this part of the Committee's report was objected to in the Convention, nor any report of its debates and proceedings other than what is to be found in Hanson's Edition of the laws, nor what was the understanding of that body respecting the right of the Governor of nomination to the Council." [1]

The Senate was composed of fifteen members, who were to be chosen by a body of electors, forty in number, two from each county and one each from Annapolis and Baltimore. The principle of the representation of small constituencies, carried out in the election of the Lower House, was disregarded here, the nineteen counties and two cities not being parcelled into districts but attaining representation only *en masse* in this miniature House of Lords. In other words, the State itself was represented as a whole or unit in, or by, its Senate (except that nine Senators were to be from the Western Shore), as Maryland was herself to be represented later in the Senate of the Union. The term of service was for five years. This peculiar construction of the Maryland Senate, differentiating it from all similar bodies on the continent, called forth much comment, many, a majority, praising while others condemned it.

[1] MS ; Letter, Worthington C. Ford.

Samuel Chase is reported to have declared his warm approval in the exclamation, "It is virgin gold!"[1] Ramsay says:

"Ten of the eleven States, whose legislatures consisted of two branches, ordained that the members of both should be elected by the people. This rather made two co-ordinate houses of representatives than a check on a single one by the moderation of a select few. Maryland adopted a singular plan for constituting an independent Senate. . . By these regulations, the Senate of Maryland consisted of men of influence, integrity and ability, and such as were a real and beneficial check on the hasty proceedings of a more numerous branch of popular representatives."[2]

It elicited the admiration of such political students as James Madison (who was probably the author of the defence of it in *The Federalist*,) and Dugald Stewart. Doubtless it suggested to the framers of the Federal Constitution the mode of constructing the United States Senate. Madison, in supporting the latter against objections made to it, points to Maryland as having successfully worked out the problem. She had disproved the charge, "that a Senate appointed not immediately by the people and for the term of six years, must gradually acquire a dangerous preeminence in the government, and finally transform it into a tyrannical aristocracy." The experiment had been tried and these fears had proved fallacious.

[1] McMahon's "History of Maryland," p. 471,

[2] Ramsay's "History of the American Revolution," vol. i., p. 445.

"If reason condemns the suspicion, the same sentence is pronounced by experience. The Constitution of Maryland furnishes the most apposite example. The Senate of that State is elected, as the Federal Senate will be, indirectly by the people, and for a term less by one year only than the Federal Senate. It is distinguished, also, by the remarkable prerogative of filling up its own vacancies within the term of its appointment; and at the same time, is not under the control of any such rotation as is provided by the Federal Senate. There are some other lesser distinctions, which would expose the former to colorable objections, that do not lie against the latter. If the Federal Senate, therefore, really contained the danger which has been so loudly proclaimed, some symptoms, at least, of a like danger ought by this time to have been betrayed by the Senate of Maryland; but no such symptoms have appeared. On the contrary, the jealousies at first entertained by men of the same description with those who view with terror the correspondent part of the Federal Constitution, have been gradually extinguished by the progress of the experiment; and the Maryland Constitution is daily deriving, from the salutary operation of this part of it, a reputation in which it will probably not be rivalled by that of any State in the Union."[1]

Dugald Stewart in his lectures says of the "Division of the Legislature," as the experiment was made in America:

"In reviewing the various modes in which this improvement has been effected in the several States, it is

[1] *The Federalist*, No. LXIII. (edition of 1857). McMahon gives this as No. III. and it was at that time attributed without question to Alexander Hamilton.

extremely interesting to consider the different expedients by which they have attempted to accomplish the ends secured in this country by a hereditary nobility. The Constitution of Maryland in this respect, as well as in various others, reflects peculiar honor on the wisdom of its framers; and (if I have not been mistaken) the result has corresponded, in a very remarkable degree, to their expectations."

In the work from which Dugald Stewart chiefly gets his information, "A Comparative View of the Constitutions of the Several States," etc., by William Smith of South Carolina, the appointment by electors, the oath to select proper men, the voting by ballot, and the duration of five years, are points in the Maryland Senate enumerated as "almost peculiar to the Constitution of this State, and are certainly, all of them, very happily calculated to ensure a well-constituted Senate,"; and, continues Dugald Stewart:

"Upon several occasions accordingly, we are told that 'their integrity and firmness have withstood the dangerous and tumultuous shocks of the more numerous branch,' and 'although they have at the moment been the subjects of popular indignation, yet returning reason and moderation have always rewarded them with the public esteem and affection. In the other States, the election of Senators *immediately* by the people, has been found not only liable to cabal, but to make the Senators too dependent on leading and intriguing characters in the several States.'"[1]

[1] Dugald Stewart's "Lectures on Political Economy," 1856, Vol. ii., p. 433. Smith's "Comparative View," etc., Philadelphia, 1796.

Roger Brooke Taney, who was one of its most distinguished members, bore his testimony to the excellence of the Maryland Senate, and its value as a check upon the House of Delegates, an opinion shared by his biographer, Samuel Tyler;

"The mode of electing the Senate by Electors sworn to elect men most distinguished for their wisdom, talents and virtues; and their term of service for five years, constituted the Senate such a body that Mr. Taney always talked of his service in it with singular pleasure. . . . Upon several occasions the integrity and firmness of the Senate withstood the unwise course of the more popular branch. Before the adoption of the Constitution of the United States, Samuel Chase proposed in the House of Delegates the issue of paper money, and the House approved it, but the Senate, under the lead of Thomas Stone and Charles Carroll of Carrollton, rejected the bill." [1]

In the letter of Charles Carroll of Carrollton before quoted, he says:

"That the manner of electing Senators was approved by the experience of many years, and that no inconvenience resulted from the Senate's filling up vacancies, cannot I think be denied. When parties run high the best institutions afford but a feeble defence against the passions of interested or deluded men. Party spirit seems to be abated [1817], and to have lost much of its virulence; whether it will be prudent, in this state of things to alter the mode of electing the Senate, I leave to your better judgment."

[1] Tyler's "Life of Roger B. Taney," p. 121.

It was under Democratic auspices in 1807, that efforts were first made to alter the mode of electing the Senate. But the bill for that purpose, passed in the House, was defeated in the Senate, at that time, and on later occasions the measure met with similar opposition. And it was not until 1837, six years after Charles Carroll's death, that his distinctive part in the State's early Constitution was altered, the Maryland Senate thereby losing its high character for conservative wisdom and ability.

A letter from Charles Carroll's father, written to him while he is in the Convention, October 21st, contains some pleasant little domestic details. He thanks his son for a present of oysters sent from Annapolis, and in return despatches a barrel of apples from the plantation home at "Doughoregan" where the good daughter-in-law is keeping house. The elder Carroll has not been well, and he writes: "Molly's tenderness and love increases her apprehensions." The only member of the Convention mentioned in this letter is "Mr. Chace" to whom Mr. Carroll sends his "service and compliments." [1]

James Sterett wrote from Baltimore to Charles Carroll of Carrollton, December 2nd, giving some war news:

"You have no doubt heard of the surrender of Fort Washington which was garrisoned by twenty-four hundred men, who with the stores etc., have fallen into the hands of the enemy. It is said our number in killed and wounded is about three hundred, and the enemy's double

[1] MS: Letter.

that number. Our army have retreated as far as New Ark in the Jerseys. It is said they have received certain intelligence of their design to come to Philadelphia, and that they are embarking a number of their troops either to come up the Delaware and make the attack on both sides, or amuse the Southern States that they may not send any assistance to our General.

"I am

"Your humble servant,

JA. STERETT."[1]

The Continental Congress met in Baltimore, December 20th, 1776, and Charles Carroll of Carrollton doubtless was in attendance. Charles Carroll, barrister, remained in Congress from November 19th to the close of the session, December 31st. The Congress was still in Baltimore in February, 1777, when the first Assembly of the State of Maryland convened in Annapolis, on the 5th of that month. It was called together by the Council of Safety, which now met for the last time.

In the small but august body, the new Senate, which took the place of the old Council, was included the statesman who had borne such an important part in its theoretical construction. The other members elected to this first Maryland Senate were Daniel of St. Thomas Jenifer, George Plater, William Paca, Thomas Stone, Joseph Nicholson, Junr., Brice Thomas Beale Worthington, Turbutt Wright, Samuel Wilson, James Tilghman, Matthew Tilghman, Robert Goldsborough, Charles Carroll, barrister, Thomas Johnson, and Thomas Contee.

[1] Maryland Historical Society.

James Tilghman declined to serve and Edward Tilghman was elected in his place, but he also refusing to serve Thomas B. Hands was elected. Thomas Johnson refusing the senatorship—Charles Grahame was put in his place. Jenifer was elected President of the Senate, and Richard Ridgeley appointed Clerk. The first business before the Assembly was to ascertain the force necessary to suppress an insurrection in Somerset and Worcester Counties. On the 8th a committee was named to draw up rules for the regulation of the Senate, consisting of Matthew Tilghman, Robert Goldsborough, and Charles Carroll of Carrollton.

A few days later there came a message from the House of Delegates in regard to a Virginia regiment which was in the service of Maryland, and was no longer needed. Charles Carroll of Carrollton carried the answer of the Senate to the House, but there was a difference of opinion as to what instructions should be given General Smallwood. The matter was settled by a conference between the two branches of the Legislature, and the Senate conferrees appointed were Matthew Tilghman and Charles Carroll of Carrollton. The order dismissing the Virginia regulars was countermanded, and they were to be sent to Worcester and Somerset Counties.

The ballot for Governor was taken on the 13th, and Thomas Johnson was raised to this important office. On the election of his five Councillors the following day, Charles Carroll, of Annapolis, father of the subject of this memoir, headed the list. No

doubt Mr. Carroll and his son both appreciated this mark of confidence and esteem. The elder Carroll, who had so long chafed under the political disabilities of his family and friends, was now not only to see his heir in the highest places of the land, but was himself asked to accept a prominent position in the government of Maryland. His infirm health, perhaps, was the cause of his declining the compliment accorded him.

Maryland elected her members of Congress on the 15th, and the following delegates were appointed: Samuel Chase, Benjamin Rumsey, William Smith, Charles Carroll of Carrollton, Thomas Stone, and William Paca, but Thomas Stone declined the seat. The Senate having thus put the wheels of the machine in motion, seems to have thought there was no further immediate need of its services. The temptation to attend the sessions of Congress, held so near, may have proved irresistible to many of the members. For only a few of them came together on the 25th of February, and from day to day afterwards until the 17th of March, when there were enough members present to form a quorum. Charles Carroll of Carrollton, however, was sedulous in his attendance all this time, except for five days' leave of absence, and his name appears in the journal as active in the work of the Senate from March 17th until its close the 20th of April.

The bill put to the Senate for its passage on the 9th of April, entitled "An Act to make the bills of credit emitted by Acts of Assembly and resolves of the late Conventions a legal tender," was opposed

by Charles Carroll on the ground of its discrimination against one class of creditors, and he filed against it the following reasons for his vote:

Dissentient, *Because* I conceive this bill to be extremely partial, affecting a particular class of men, whom it obliges to receive for money due to them, the Continental bills of credit and the bills of credit of this State at their nominal value, while all others are left at liberty, in consequence of a real and great depreciation of those bills, to exact the most exhorbitant prices for their land, the produce thereof, and for every other saleable commodity.

Because, there is no justice in punishing the innocent, to prevent the evil practices of disaffected persons, desirous of depreciating our paper currencies, against the future commission only of which practices this bill provides; without giving it a retrospect, all future monied contracts might be made dischargeable in the Continental bills of credit, and in the bills of credit of this State, which provision, I conceive, would remedy the mischiefs complained of, as far as human laws can guard against the secret workings and devices of the avaricious and artful; and by providing that creditors shall receive their interest in these bills of credit at their respective nominal values, and the principal too, should they sue for the recovery thereof during this war, or in a limited time afterwards, the only plausible argument in support of the bill would be fully answered, and debtors would be relieved from the accumulation of interest, and the distress which that accumulation and the unfeelingness of their creditors, not so restrained, might otherwise heap upon them. Charles Carroll of Carrollton.[1]

[1] Journal of the Maryland Senate, 1777.

The Maryland delegates to Congress received their instructions from the Assembly at this session, on the subject of bringing the States together under some written compact of union. The Legislature declared:

"We have long and impatiently expected, that a confederacy would have been formed between the United States . . . We do therefore instruct you to move for a stricter Union and Confederacy of the Thirteen United States, reserving expressly to the General Assembly of this State the power of confirming and ratifying the said Confederacy, without which ratification we shall not consider it as binding upon this State; and should any other Colony solicit to be admitted into that Confederacy, you are to oppose such admission until the General Assembly can be informed thereof, and their consent obtained thereto."[1]

Another point in the instructions related to the manner of ascertaining the quota of the State's debt; negro taxables were to be deemed and taken, "as part of our people for the purpose of taxation." The delegates were also to urge that the proceedings of Congress be made public.

The following letter was addressed to Charles Carroll of Carrollton by Col. John Fitzgerald of Alexandria, Virginia, who was with the army at Washington's headquarters, a member of Washington's staff.

MORRIS TOWN, March 29th, 1777.

DEAR SIR:

Give me leave to communicate the following piece of intelligence to you which this day we have from

[1] *Ibid.*

Boston, so well authenticated as not to admit of the least doubt.

"On the 18th inst. arrived at Portsmouth an armed vessel of 14 guns from France; her cargo consists of twelve thousand stand of arms, one thousand barrels of powder, flints, guns for the frigate there, woolens, linens, etc., etc. She has been out 42 days. A fifty gun ship sailed at the same time and from the same place for this port. She is richly laden with heavy artillery and military stores. Two very valuable prizes are now riding in this harbour, both from London. Their cargoes are the woolens, linens and summer clothing to a great amount. I had almost forgot to tell you that the Court of France has remonstrated against any more foreigners being sent to America, and that upon Doctor Franklin's arrival they demonstrated their joy by bonfires etc." Another letter says that a General, a Colonel and a Major all strongly recommended by Dr. Franklin are come in this vessel.

This news, I am sure, will be very agreeable to you and every other gentleman so strongly attached and deeply interested in this dispute. I therefore sincerely congratulate you thereon, and hope you'll pardon the liberty on my side of beginning a correspondence with you. The public prints will inform you nearly as much of our situation here as I am at liberty to mention. The General is quite recovered from his late indisposition. I shall be glad of the honor of a line from you by post, and am with most respectful compliments to Mrs. Carroll and family,

Dear Sir

Your obedient, humble servant

JOHN FITZGERALD.[1]

[1] Maryland Historical Society.

Robert Carter wrote to Charles Carroll from "Nomini Hall," in April and May, about some business of the Baltimore Company, and in one of these letters he says, showing the inadequate postal facilities of the period: "There is an intercourse between the people here and those residing in St. Mary's County, Maryland, except during the winter season. Letters for me forward to Leonard Town in St. Mary's will seldom lay long there."[1]

Charles Carroll of Carrollton returned to his seat in Congress, May 5th, 1777. He had given himself an interval of fourteen days from the adjournment of the Assembly, April 20th, to look after his domestic and plantation affairs. Arrived again in the Federal council, he resumed his former place on the Board of War. In September, 1776, this committee had been charged with the duty of preparing a plan of military operations, and drawing up resolutions for enforcing and perfecting discipline in the army. Benjamin Harrison left Congress about that time, but on his return in November he was immediately assigned again to the Board of War. Francis Lightfoot Lee had been placed upon it in Harrison's absence, and in January Samuel Adams had been made a member of the Board. An assistant clerk was given them in Mr. Nourse, who had been employed in this capacity by Genl. Charles Lee. One of the duties of the Board of War after the battles of Trenton and Princeton was to direct the disposition of a number of British prisoners, some of whom were sent to Dumfries and some to Leesburg in Virginia.

[1] Carter Letter Books.

On the 12th of May, Charles Carroll of Carrollton was added to the Committee on Foreign Applications. A letter had been received from General Washington, with a copy of one from Silas Deane of November 30th, 1776, brought to America by General Conway—which after being read by Congress were referred to the above committee. Their report was brought in to Congress on the 30th, whereupon it was resolved that commissions be sent to General Washington "for the French officers lately arrived in the *Amphitrite*, to be filled up agreeable to a list to be forwarded to him by the Committee; the rank of each class of the said officers to be settled by the date of their commissions from the King of France.[1]" Monsieur de Coudray, the Chevalier du Portail, Monsieur de Laumoy, Monsieur de Gouvion, Monsieur La Badiere, and other French officers had been promised by Franklin and Deane certain appointments in the American army which Congress was not willing to confirm. And on June 25th the Committee on Foreign Applications brought in a report concerning De Coudray's case.

Congress in Committee of the Whole, July 15th, decided that the agreement made by their agents in France with Monsieur de Coudray could not be carried out, but they softened this decision by assurances that they would give him such rank and appointments as the honor and safety of the States and their duty to their constituents permitted. The Board of War was then directed to

[1] Journal of Congress, 1777.

lay before Congress a list of the foreign officers in the Continental service, with full details as to their rank in France or any other European state. Monsieur du Portail and his confrères who asked for *higher* rank than that agreed on between them and the American envoys, Deane and Franklin, had their memorial referred to the Board of War, Congress, upon its report, giving them an answer in the negative. But the treaty made with them by the envoys was confirmed.

The Committee on Foreign Applications was an adjunct to the Board of War. And Charles Carroll, from his long residence in France and his knowledge of the language and the people, was no doubt a most useful and acceptable addition to its members William Duer was added to the Board of War, July 2nd; and on the 18th of July Congress resolved that three gentlemen, not members of Congress, be appointed to conduct the business of the Board of War, under the direction of the present Board.[1]

Samuel Chase took his seat in Congress July 21st, and it is probable Charles Carroll of Carrollton left there soon after for his plantation home. From "Doughoregan Manor" he wrote to Dr. Franklin, early in August, giving him an interesting account of the progress of the war and of the condition of the country. It is evident he was corresponding at this time with Samuel Chase, and it is much to be regretted that none of these letters seem to have been preserved.

[1] *Ibid.*

DOOHORAGEN, ANNE ARUNDEL CO. [MD.],
August 12th, 1777.

DEAR SIR:

I lately received a letter from Mr. Carmichael to which the enclosed is an answer. This letter was without date, nor could I certainly gather from any circumstances contained in it, the place of his residence. As the business in which he is engaged may occasion him to shift frequently his abode, I request the favor of you to forward to him the inclosed letter, or to deliver it, should he be in Paris. I left the letter open for your perusal, as it relates principally to public concerns; when you have read it please to seal it.

No doubt the secret committee will give you a full and true account of the present situation of our affairs and of our wants; they may not perhaps enter into the causes of our miscarriages on Lake Champlain. The loss of the forts of Ticonderoga and Mount Independence, and of our stores must be imputed to the dilatoriness of the New England States in not sending sufficient forces to defend the lines; to an unhappy difference between General Schuyler and Gates, the foundation of which was laid before you left Congress; and lastly to the improvidence of Congress in not giving positive orders for evacuating those posts and the removal of the stores before the arrival of the enemy at Crown Point. The campaign hitherto has been inactive. General Howe must have been weaker than we imagined, or must have wanted some essentials, otherwise his remaining cooped up at Brunswick all the spring, must appear to every military man a strange piece of conduct.

The temperature of the weather at that season, and the weakness of General Washington's army, were strong incentitives, one would think, to action. It is their interest

to be active and enterprising in order to finish the war with the utmost expedition ; it is ours to procrastinate and avoid a general battle. Perhaps the enemy mean to worry us into slavery by a lingering and expensive war, and despair of succeeding by open force, *viribus et lacertis.* The enemy will probably direct their whole force this fall against the State of New York with a view to reduce it entirely, and thus open a communication with Canada, and render difficult and hazardous the communication between the Eastern and Middle States ; whether they will succeed in this plan time must discover. The chances, I think, are against them if the Eastern and Middle States exert themselves, and as their own preservation depends on speedy and vigorous exertions, we may hope the enemy will be baffled in their attempt.

I flatter myself our struggles for Independence will, in the end, be crowned with success, but we must suffer much in the meantime, and unless we continue to receive powerful assistance in arms, ammunition, and clothing, and other warlike stores, and supplies of cash or a credit in Europe, equivalent thereto, we must sink under the efforts of a rich and inveterate enemy, mistress of the ocean, and determined, it seems, to run every hazard in subduing these States to unconditional submission.

My greatest apprehensions arise from the depreciation of our paper money ; if we emit more bills of credit they will fall to nothing ; we cannot tax to the amount of the charges of the war, and of our civil establishments ; we must then raise money by lotteries or by borrowing : But the adventurers in lotteries will be few, and the monied men will not part with their money without a prospect of having their interest paid punctually, and in something that deserves the name of money, and will serve the uses of it. If the annual interest of the sums

borrowed could be paid in gold and silver, it would be a great inducement in monied men to lend their money to Congress; where one pound is now lent forty pounds would then be lent. If bills of exchange drawn by Congress on some house in France would be accepted to a certain amount, considerable sums proportionable to the obtained credit, might be speedily raised by the sale of such bills, particularly if advantages were taken by the public of such exchange. But of these matters I shall say no more, as the secret committee will certainly write fully on the subject, and in a more masterly manner than I am capable of.

I hope you continue to enjoy your health, and that flow of spirits which contributed to make the jaunt to Canada so agreeable to your fellow-travellers. Mr. John Carroll, and Chase are both well; the latter is now at Congress, and has been so fully and constantly employed that I believe he has not had leisure to refute your reasons in favor of the old ladies. I often think of you and wish for your company; this I own is selfish, as it would be depriving you of those pleasures which you enjoy in the company and conversation of the literati of Paris, and these States of your abilities, and those services you have rendered and may render them in your present station. If the important occupations of it will permit, I shall be extremely glad to hear from you. I wish you health, a long continuance of it, and success in your negotiations, and remain,

Dear Sir

Your most obedient humble servant

CHARLES CARROLL OF CARROLLTON.

P. S. In looking over my letter, I find I have omitted some things which you may be desirous to know; probably you will be informed of them by others, but lest

you should not, I shall mention such as I think will be most interesting ; indeed to a person 3000 miles off, the most trifling circumstances are interesting. We have not yet confederated, but almost every member of Congress is anxious for a Confederacy, being sensible that a Confederacy formed on a rational plan will certainly add much weight and consequence to the United States collectively, and give great security to each individually, and a credit also to our paper money ; but I despair of such a Confederacy as ought and would take place if little and partial interests could be laid aside ; very few and immaterial alterations will be made in the report of the Committee of the whole house. This is only my opinion, for we have made but very little progress in the house, in that important affair, immediate and more pressing exigencies having from time to time postponed the consideration of it to this day, when I am informed it is to be again resumed.

If this war should be of any considerable duration, we shall want men to recruit our armies ; could we engage five or six thousand men, Germans, Swiss, or the Irish Brigade ? I have mentioned this matter to several members of Congress, but they did not seem to relish the introduction of foreign mercenaries. I own it ought to be avoided if possible. Handycraft men would be very serviceable to us, such as blacksmiths, shoemakers, weavers, and persons skilled in the management of hemp and flax.

One of the greatest distresses we have yet felt is the want of salt, but I hope we shall not be in so great want of that essential article for the future as we have been. A bushel of salt some months ago was sold at Baltimore Town for £9. Necessity is said to be the mother of invention ; it surely is of industry among a civilized

people. Many private persons on our sea-coasts and bays, are now making salt to supply themselves and neighbors; these private and the public salt-works together, will in a few months, I hope, yield a tolerable supply to our people, and at pretty reasonable rates compared with those which have obtained for some time past. Perhaps the private saltmakers may afford to sell salt at 30/ per bushel; the undertakers of the public saltworks in this State are under contracts to sell what salt they make at 5/. We are casting salt pans, but they cost £100 per ton, and are subject to crack. When our plating mills get in full work it will be better to make the pans of plate-iron, although they will come considerably higher. A large importation at this time from Europe of salt pans would be very serviceable; they would sell high.

The necessaries of life, except wheat and flour, are risen to an amazing *nominal* price, owing to an increased demand, and great depreciation of our currencies; wheat sells at 6/6 in this part of the country; the market for flour is very dull at present. The price of live stock of all kinds is prodigiously advanced, a cow for instance, which a year ago would have sold for 16 only, would now sell for £18 or 20; cloths, linens, and woolens, are excessive high. I have a coat on, the cloth of which is not worth more than 10/ a yard, and would not have cost more 18 months ago, which lately cost me £4,10 a yard. Rye sells as high as 10/ per bushel; the distillers give that price to distill it into whiskey; stills are set up in every corner of the country, I fear they will have a pernicious effect on the morals and health of our people.

The months of June and July were pleasant and seasonable; the spring was very cold and dry, with late frosts. We had a frost here the 28th of May which destroyed our European grape-vines and apples. The

crops of flax throughout this State are bad ; the crops of wheat and rye, in general, good. The 1st instant the weather set in very hot, and has continued so ever since ; yesterday was the hottest day I ever felt, this is almost as bad. I have not a thermometer or I would let you know the exact degree of heat. This postscript is longer than my letter ; excuse the length of both, and believe me to be, Dear Sir,

Your affectionate humble servant

CHARLES CARROLL OF CARROLLTON.[1]

[1] Sparks MSS : Harvard College Library.

CHAPTER VII.

IN THE CONTINENTAL CONGRESS.

1777–1778.

CHARLES CARROLL did not remain long away from his public duties. And he wrote from Philadelphia an anxious letter to Governor Johnson, on hearing that Lord Howe's fleet was in Chesapeake Bay, the latter part of August, 1777. In September he was sent by Congress with Samuel Chase and John Penn to the army to look into its condition, and he wrote to Governor Johnson from General Smallwood's headquarters a report of affairs in that direction.

August 22nd 1777.

DEAR SIR :

Mr. Doans who got here late yesterday evening brought me the first authentic intelligence of the enemy's grand fleet being in our Bay. An express passed through this place Tuesday morning, with an account that part of the enemy's fleet was off the mouth of Potomac. I could not persuade myself that this fleet was anything more than some ships sent to pillage, and collect stock ; but it seems that Howe's army is on board this fleet, and it is

CHARLES CARROLL.

ATTORNEY-GENERAL OF MARYLAND.

1660–1720

now plain he means to land at the head of the Bay. Perhaps he will form an encampment on the isthmus or narrow neck of land between the two Bays, and thus enclose the peninsula lying between Chesapeake and Delaware Bays; from thence he may flatter himself with recruiting his army with the disaffected and supplying it with provisions.

Pray let me know your determinations. Do you think it proper to call the Assembly? Can it meet if you call it? I suppose the enemy's shipping will endeavor to cut off, if it can be done, the communication between the two shores. I imagine the militia, or a part of it, will be called out and sent to the head of the Bay; but what magazines are formed there for their support? And what can be collected to feed our militia, and General Washington's army in the space even of six weeks? I imagine Howe's intention is to do what I have mentioned above, and when his army is refreshed to move towards Philadelphia. I shall be much obliged to you for a few lines informing me what you think had best be done in our present situation.

I received yesterday evening a letter from Col. Fitzgerald dated Bucks County, twenty miles from Philadelphia, the 19th instant. The following are extracts from his letter: "General Howe's not attempting to force his way to the city was displeasing to both Whig and Tory; our army prayed most religiously for it, and even the private men appeared individually concerned in defence of it. It is now a month since General Howe sailed from Sandy Hook, and as yet we are unable to determine the place of his destination, having had no account of him since he was seen off Sinepresent. The general opinion now prevailing is that Charles Town is the object of his present views, in which case as it will be impossible for

this army to follow him there, its operations will be turned against Burgoyne, and I have no doubt will (if it can come up with him) effectually secure the continent against any future incursions from him.

Gates, Lincoln and Arnold are arrived at Albany; reinforcements have been lately sent to them, Morgan's riflemen among the rest, which I am satisfied will be a match for them in their own way. Some troops we have at Fort Schuyler up the Mohawk River, assisted by the militia of Tryon County, have lately had two skirmishes with a party of the enemy there, in both which they behaved with great bravery, and gained some considerable advantage over them. General Clinton remains on York Island, and from the best accounts we can get has not 3000 effective men with him, most of them Hessians. They are building redoubts and breastworks all along Harlem River, and appear very apprehensive of a visit from us. We have had no answer to the proposal for the exchange of General Lee for Prescot, and I am doubtful it will not take place."

Thus far Fitzgerald's letter. I find by a passage in it, the prejudices seem strong in the army against Schuyler and St. Clair. I own the conduct of the latter in not evacuating those posts sooner appears very blameworthy. However, time will clear up all these matters.

I heartily wish you well, and am

Your affectionate humble servant

CH. CARROLL of CARROLLTON.[1]

[1] Pennsylvania Historical Society. (A copy in the Maryland Hist. Society.)

SWAN CREEK, 8th September, 1777.

DEAR SIR :

I beg the favor of you to forward the inclosed by the first safe opportunity, my father will be anxious to hear from me. Genl. Smallwood writes to you by this opportunity and transmits a return of the militia here, their arms, ammunition and accoutrements, and I suppose will inform you he proposes to order the militia to rendezvous at Johnson's Ferry. The militia at this place will march to-morrow for that ferry. I shall proceed to headquarters. No doubt you have better information from Mr. Jones of the enemy's position and motions than I can collect at this out of the way place. Howe I hear is at Aitkens's Tavern, five miles from head of Elk.

Col. Rumsey, who is now here, was Saturday at head of Elk and made some prisoners. Cornwallis is at Crouch's Mills, Kniphausen at Fisher's Mills, the last distant from Newark three miles. Poor Alexander is gone along with the enemy with all his family. He can never remain in this country unless in the disagreeable situation of seeing it conquered by the enemy ; if he has any virtue, this thought alone must pain him. Dr. H. Stevenson, it is said, cried like a child when he left his plantation in this neighborhood ; unfortunate, misguided men ! G W. made a speech (I am told by one Rogers who keeps Susquehanna Ferry) to his army which was received with great applause ; officers and men desired to be led to battle.

Washington is said to be at the head of 30,000 men. I believe this number exaggerated by at least a third. I believe General Smallwood does not intend to cross Susquehanna till he receives the field-pieces, at least not to proceed near the enemy. General Washington, I am sure, will not hazard a general battle. We this day had

a full view from Stony Point of the enemy's fleet lying from the mouth of Elk to Sassafras, but chiefly about the mouth of Sassafras.

If Mr. Smith should be desirous to return home, as it appears he is by a letter of his I this day saw, written to Col. B. Rumsey, I shall proceed to Congress, and not return to join Smallwood's brigade of militia. Indeed I already find this kind of sauntering life extremely disagreeable and fatiguing, and hard lodging and irregular hours of eating, begin to disagree with my puny constitution, and habit of body. But perhaps I shall soon be more inured to and better able to support the fatigue of a campaign.

I heartily wish you well, and am,
Your affectionate friend,
CH. CARROLL OF CARROLLTON.

P. S.—Please to put my letter to my father into the postoffice at Baltimore Town.

To His Excellency
THOMAS JOHNSON Esq :
Baltimore.[1]

General Smallwood wrote to Governor Johnson from Nottingham, September 14th, that he was just "setting out for Philadelphia to join General Washington's army," and Charles Carroll of Carrollton added a postscript to the letter:

"Dear Sir: I shall proceed with General Smallwood till he joins the main army, and shall then either go to Congress or return home. I am well and desire you will inform my father thereof by the first opportunity."[2]

[1] MS: Letter. [2] Maryland Historical Society.

The following letters, on army affairs, one from the field and the other from Congress, were written by Charles Carroll to General Washington a little later in this same month.

DEAR SIR : POTTS GROVES, 22nd September, 1777.

I would just suggest the propriety of sending some active persons to Bristol and Trenton to impress wagons to remove what continental stores are at those places, and may be carried thither from Philadelphia in consequence of your orders to Colonel Hamilton. This measure is the more necessary as the order of Congress for removing these stores is suspended till their meeting at Lancaster, which may not be for some days. Mr. Smith, one of our delegates, being returned home I must proceed to Congress to keep up a representation from our State.

I desire my compliments to the gentlemen in your family, and wish your Excellency health and success against our common enemy.

I am with great esteem

Your most obedient humble servant

CH. CARROLL OF CARROLLTON.

To his Excellency
General WASHINGTON.[1]

DEAR SIR : LANCASTER, 27th September, 1777,

I have had some conversation with Mr. Peters, secretary to our board, who informs me that in the month of June last 1000 tin cartridge boxes were sent to the Army and delivered to a Captain French. Mr. Peters moreover informs me that to his certain knowledge several of these cartridge boxes were converted by the soldiers into

[1] Washington MSS :, Department of State.

cantines, and by some officers into shaving boxes. Commissary Flowers also acquainted me that there are now at Carlisle upwards of 2000 tin cartridges boxes; if these are wanted in the Army they may be immediately sent for.

I am sorry to observe that two officers in high command in our Army are said to be much addicted to liquor; what trust, what confidence can be reposed in such men? They may disconcert the wisest and best laid plans. Such men ought to be removed from their command and the army, for their example, besides the mischief which may be occasioned by a clouded and muddled brain, will have a pernicious influence on others. But how are they to be removed from their command? I could wish to know your Excellency's sentiments on this subject. The interest of the best and most glorious cause ought not to be sacrificed to a false delicacy. These are not times to put into competition the interests of a few with those of a great community.

Nothing but severe punishments will, in my opinion, make the Commissaries and quartermasters attentive to their duty! Your Excellency has the power, and I hope will not want the will, to punish such as deserve punishment. I hope your Excellency will excuse the freedom of this letter. My zeal for our Country, and my wishes for your success, have impelled me to write thus freely on a subject which claims all your attention, the reformation of the army, and of the abuses prevalent in the two important departments of the Quarter Masters and Commissary General. I am, with much esteem,

Your Excellency's most obedient humble servant,

CH. CARROLL OF CARROLLTON.

To his Excellency General WASHINGTON
at Head Quarters.[1]

[1] *Ibid.*

Samuel Chase and Charles Carroll of Carrollton were the only delegates present from Maryland when Congress met at Lancaster, Pennsylvania, September 27th, 1777. From Lancaster the Congress went to Yorktown, September 30th. The Articles of Confederation, which had been under consideration during the summer, were taken up, and the provision for voting in Congress discussed. William Smith was in his seat, October 7th, when the vote was taken, and the three Marylanders opposed the motion for representation according to population, one for every fifty thousand inhabitants. Two other similar propositions were negatived by them, as they were by the majority of the delegates. Then the resolution was passed, "Each State shall have one vote" in determining questions.

On the 14th, the manner of constituting the Congress of the United States was considered, and it was determined that no State should have less than two or more than seven members. It was moved in Congress the following day, that it be "recommended to the Legislature of each State to lay before Congress a description of the territorial lands of each of their respective States, and a summary of the grants, treaties and proofs upon which they are claimed or established." The Maryland delegates voted for this motion, but it was defeated. The following extraordinary proposition was also negatived: "That the United States in Congress assembled, shall have the sole and exclusive right and power to ascertain and fix the western boundary of such States as claim to the South Sea, and to dispose of all lands

beyond the boundary so ascertained for the benefit of the United States."[1]

A third motion, evidently made by one of the Maryland members, as Maryland was the only State that voted for it, was similar to the one above, except that, after "Mississippi or South Sea" the boundaries named, these words were added: "and lay out the land beyond the boundary, so ascertained, into separate and independent States, from time to time, as the numbers and circumstances of the people thereof may require." The States were not disposed thus to sacrifice their rights and limit their sovereignty, and the single vote, outside of Maryland, given in favor of this motion was that of Jonathan Elmer of New Jersey. When the question was finally put as to the adoption of the Articles of Confederation, October 30th, the only member present from Maryland was William Smith.

The discomfiture of Burgoyne at Saratoga, taking place at this time, is the theme of congratulation in the following characteristic letter from Mons. Pliarne to Charles Carroll Sr., as it is also in a letter of Charles Carroll of Carrollton to Richard Peters, Secretary of the Board of War.

BALTIMORE, October 16, 1777.

SIR:

The first use of my time at my arrival in town has been to inquire for news to convey to you. Nothing important happened since Germantown's affair. All the intelligence from the armies is in a letter from Mr. Chase to the Governor. Mr. Lux who has got it will give you an extract of it. You will be surprised to see Fort Mont-

[1] Journal of Congress.

gomery taken without seeing Putnam marching to defend it. The fort is about eight, ten miles above Pickskill where Putnam is encamped. Now did the transports going up the river escape to him? I must believe he has acted for the best, but if Clinton goes so rapidly he will be soon at Albany. Time will satisfy us better than all the conjectures; few weeks will bring important events. As long as I will be in the way of hearing from the armies, be sure, Sir, to receive all possible intelligence. Should Mr. Carroll leave the Congress to go to the Assembly, I will try to make his absence in those quarters insensible to you; you will have the news exactly.

How happy I will esteem myself if I can convince you of the sentiments you have inspired to me. You don't like compliments, and for fear you should take for compliments the protestations of my sincere gratitude and profound respect, I must keep within myself all my feelings, but give me leave, Sir, to tell you in every occasion, that I will be truly happy if you remember me sometimes to your esteem. I am with a sincere respect,

Sir, your most obedient humble servant

PLIARNE.

P.S.—I have tried all possible to find a man to come with me to York. None is to be got. I take the liberty to bring your boy with me to M. Buckanan. I will send him to you the same day, and it will not be difference to you. Pardon this liberty. My respectful compliments to Mrs. Darnall and Mrs. Carroll. I kiss thousand times Moly, Charles and Nancy.

In this world good and bad are so well mixed that a good thing is generally near a bad one. Fort Montgomery taken; but Burgoyne is defeated. It is now Friday, 12 o'clock noon. I just arrived at Mrs. Buckanan. Between here and Baltimore I have met a man at horse-

back. I have stopped him. Mrs. Carroll knows I stop everybody upon the road. He says to be himself express come to Congress from Albany. Burgoyne is totally defeated ; the engagement took place the 3d of the month and continued till the next day. Great many killed upon the enemy ; five, six hundred taken prisoners, 18 field pieces taken. This man adds great many principal officers of the enemy killed. But Burgoyne was safe in that affair. The loss of the Americans is not great ; Generals Arnold and Lincoln both wounded, not dangerously. Ticonderoga was yet in the possession of Burgoyne, the French lines only occupied by a party of Americans, but all the boats are destroyed and Burgoyne cannot retreat. The express says for this time he must be himself and the trifling remains of his army, in the possession of Gates who is 16000 strong. If all this is true, General Washington will call soon that army under Gates, and when all the shipping at New York will be stopped by the frost, he will force that town and at once will take all the British troops there, Staten Island, Long Island and Philadelphia. Fine thing indeed, but it is not done yet. However, this man seems to be a true express, and I give credit to the news.

Mr. and Mrs. Buckanan desire their compliments to you and all the family. Mrs. Buckanan who sends her love to Mrs. Carroll, give me commission here to tell her that the things are not ready. She will send them down when they will be made. Now M. Carroll must pardon me for having taken the liberty to take the boy with me here—so fine news from Burgoyne pleads in my favor. Do be well and take care of your health.

CHARLES CARROLL Esq :
at his Manor.[1]

[1] Maryland Historical Society.

DOOHORAGEN, 22d October, 1777.

DEAR SIR :

Yesterday we received the glorious news of the taking Burgoyne and his whole army prisoners of war. I sincerely congratulate you on this important event. I hope it will be followed by the defeat of Howe ; at least by a disgraceful and precipitate retreat from the City of Philadelphia and State of Pennsylvania.

I write this letter to request the favor of you to obtain from the Board of War, two weavers from among the British prisoners. I would prefer British workmen on account of language and superior skill, to Hessians, but rather than not get weavers I must take Hessians, or else my poor slaves must go naked this winter. Mr. Attlee can inform you whether there are such workmen among the prisoners at Lancaster or Lebanon, for although the most of them have been removed, it is most probable some of them have remained behind. I must intreat you sir, to exert yourself in rendering me this essential piece of service. My father would pay them £3 a month apiece. They will be well fed, and will live in a wholesome country, and so remote that they will not be able easily to make their escape, if they should attempt it.

I hope General Washington will soon give us a fresh supply of prisoners, and from these perhaps you will be able to select the weavers, if not from those already in our possession. The weavers we want are such as have been used to weaving coarse linens and woolens.

I beg my compliments to Mrs. Peters, and remain

Dear Sir, your most humble Servant,

CH. CARROLL OF CARROLLTON.

P.S.—Please to acknowledge the receipt of this letter, and let me know whether there is any prospect of obtain-

ing soon the weavers. If they are to be had I will send for them ; one, if two cannot be had will be better than none. Please to direct to me at Annapolis, as I shall be there in a few days attending our assembly.

To Richard Peters Esq.
Secretary to the Board of War
At York, Pennsylvania.[1]

During his service in Congress in the fall of 1777, Charles Carroll of Carrollton had continued a member of the Board of War, to which body many important letters and papers had been referred. And about this time is to be dated the beginning of the Conway Cabal, by which it was designed to force General Washington to resign the command of the army, his place to be taken by General Charles Lee or General Horatio Gates. The changes made in the organization of the Board of War in October and November, it is charged, were brought about with this end in view. General Conway, whose name has been given to the plot, had been much dissatisfied at the position assigned him, and had asserted a priority of rank in France over the Baron de Kalb, and he had written to Congress on the subject in September. On the 17th of October four members had been added to the Board of War ; and on the same day, it was resolved that a Board of War be established to consist of three persons not members of Congress, to sit whenever Congress met and submit their proceedings to its supervision. All the military officers of the United States were required to observe the directions of the Board, and it

[1] Archives, Pennsylvania Historical Society.

was to have a general superintendence of all military operations.

Francis Dana of Massachusetts and J. B. Smith of Pennsylvania were added to the Board on the 17th of November, and a day or two later General Thomas Mifflin, who had just been reported by Washington for incompetency in the Quartermaster-General's office, notified to Congress his acceptance of an appointment to the new Board of War. On the 27th of November, General Gates was made President of the Board. This was the situation in November, after Charles Carroll had returned to Maryland. General Conway wrote him a letter on the 14th of this month, detailing his grievances, which epistle was read in Congress on the 24th of November, as it was a part of the correspondence of the Board of War. A letter written two days later by Monsieur Pliarne to Charles Carroll, Sr., contains allusions showing how the forces were working towards the elevation of Conway and his friends.

CAMP AT WHITE MARSH,
the 14th November, 1777.

Sir :

This day I have sent my resignation to Congress. Seven weeks ago several gentlemen wrote to me from the seat of Congress, mentioning the extraordinary discourses held by you Sir, by Mr. Lovell, Mr. Duer and some other members on account of my applying for the rank of major general. If I had hearkened to well grounded resentment, I should undoubtedly have left the army instantly. But my delicacy pointed out to me to continue in the army until the end of the campaign ;

this I have done. I look upon the campaign as finished, for I am pretty clear that since the enemy is reinforced, and has had time to secure his front with a double line of fortifications, nothing can be attempted with any degree of safety, propriety, or appearance of success. Now Sir, I will undertake to show that my request of being made a major general had nothing in it so unreasonable as to cause your astonishment, and the most disobliging reflections, thrown by you Sir, and other members of Congress.

Of all the French officers who came to this continent, I am the most advanced in rank, and the only field officer bearing rank in actual service. Chevalier de Barré was a lieutenant colonel in 1757; he was thanked in 1761; if he had continued in service he would be now a major general in the French army, and mentioned in the Military Kalendar, which is printed every year, and wherein every officer bearing rank, from the Marechal of France to the last sub lieutenant, is carefully mentioned. Baron de Kalb got a commission of lieutenant colonel, and left the army in 1762. If he had been continued in service and had bore a rank in our army, he would be in the centre of our brigadiers, but I am very certain that you 'll find neither of these gentlemen in the Kalendar, because they have no rank in the army, and indeed did not interfere with it these sixteen or seventeen years passed.

I am told that Baron de Kalb has a brevet of brigadier from the Minister of the Navy, such as was obtained by Mr. Ducoudray and some of his officers. Whether he has or not, I am still certain that this brevet cannot give him the rank over me in the French army, because there has never been an instance of it in our service. I always appeal to the Military French Kalendar, which is the

true standard of rank. It was in order to guard against those sham brevets, for which I understood that some people were applying, that I made with Mr. Deane the only condition which is to be found in my agreement. The condition was that no officer who had not an equal rank with me in actual service, should be put over me. Mr. Deane promised it to me, and told me, in taking me by the hand, that I was the only gentleman who had not taken advantage of his present situation.

He directed me to encourage and bring over some officers of the Irish Brigades. I got one hundred and sixty guineas for that purpose. I gave eighty-four guineas to two officers who came over with me, and whose receipts I can produce. Seventy-six guineas I sent to four officers of the Irish Brigade who were prevented from embarking on account of the noise made about the *Amphitrite*. I charged nothing for myself although my expences to come to this country amounted to above one hundred and twenty guineas ; although I am now in the case of selling my effects in order to reach some seaport. But I will not dwell upon the article of cash. After Mr. Ducoudray had left me in Port Lorient last January, I got charge of the *Amphitrite*, and of the letters for Congress, which letters I delivered to Col. Langdon upon my landing at Portsmouth. The captain of the *Amphitrite* had positive orders to sail for St. Domingo, and the Commissary of the Navy Board at Port Lorient had made him sign a formal promise not to come to this continent. He was determined to follow his orders ; in order to make him alter his determination, I gave him a certificate by which I acknowledged that by violence I compelled him to infringe the King's positive orders, and steer for this continent. The captain is now in possession of the certificate. If France does not take an active

part or a public one in the present contest, the captain of the *Amphitrite*, which ship has caused such loud complaints from Lord Stormont, will be brought to an account for disobedience; he will have my certificate to produce; I may fall a sacrifice to policy, lose my rank, and the prospect of speedy promotion in France, and the fruits of thirty years constant service.

At my arrival here M. De Barré, my inferior in rank, who got six thousand livres in France, was made a brigadier, and paid as such from the month of December, when I was appointed the last brigadier of the army. After the battle of Brandywine, Baron de Kalb, also my inferior, who got about a thousand pounds here or in France, was made a major general. If I patiently bore such repeated wrongs, it might be concluded in France that I misbehaved; and indeed the Congress instead of looking upon me as an officer who enjoyed some esteem and reputation in the French infantry, must take me for a vagabond who flew here to get bread. I thank God that neither one nor the other is the case. I came over here because I liked the cause and like it still; because I was often and warmly invited by Mr. Deane. My candid way of acting with him will testify it. As to my behaviour I appeal to the army.

The French gentlemen told me, Sir, that you asked in a most despising manner what I had done. Indeed I must confess that I did not do all that I wish to have done, but I hope I have done as much as was left in my power. As I am not acquainted with your gazette writers, I must tell you that upon my arrival in camp I was night and day employed in writing instructions concerning the camp, the outguards, the orders of marches, of which I found not the least notion in this army. Part of those instructions was followed, the greatest part was not; this is not my fault. I wrote several plans about

the economical administration of this army where I saw many striking abuses. I am confident that this army is sufficient [if] not to ruin, at least to distress the continent, whereas it could be kept upon a flourishing footing in saving one-third part of the money spent upon it. As [it] seems I have not been understood, at least I saw no alteration for the better.

At the Short Hills I was first ready, and first attacked, drew up in battle, stopped the enemy, and made my retreat without running, and without losing a single prisoner. The other brigade has been attacked an hour after mine, and I think I had given it full time to make a retreat. At Brandywine my brigade remained the last upon the ground, and though I had been abandoned pretty early by the brigades of the right and left, my brigade continued fighting until it was flanked on both sides by the enemy. That same brigade was the first or rather the only brigade that rallied to oppose the enemy's pursuit, when for want of ammunition it was ordered to be relieved at the close of the evening by a French brigade which had not yet been engaged. At Germantown, with little better than four hundred men, I began the attack, and was fighting three quarters of an hour before any individual came to support me.

You asked upon what grounds I could call for the rank of major general. Because I can be more useful at the head of a division than at the head of a small brigade. Because in my young days I had a larger command before the enemy than what I have had in your army. Because being those twenty years constantly studying military operations, having travelled through Europe to take a view of the different armies, having been lately employed in making out a set of field manœuvres, having practiced and tried said manœuvres last year in the presence of several experienced generals, both German and French,

I thought myself more qualified to command a division than such major generals who had never seen a line of battle as they confess themselves, before Brandywine, and as it too well appeared.

It was for want of knowledge and practise in forming the lines that Brandywine was partly lost. I can assign many other reasons for the loss of that battle. It was for want of forming the line and of manœuvering that we miscarried at Germantown, our left wing composed of the largest part of our army, having lost near an hour in an useless countermarch, as it appears by the several testimonies given at a court martial now sitting, of which I am a member. I am far from thinking myself a general, but I believe that after having studied and practiced this trade steadily during almost all my life, I may venture to say that I know somewhat more of it than the brave, honest men who never made it their business. I have much regard for Baron de Kalb and think that the continent has made in him the acquisition of a good officer, but I can venture to say that I have gone through and seen at least as much service as he did.

This letter, sir, if you have patience enough to read it, will convince you that my request of being made a major general was not altogether as impertinent as you, sir, and other gentlemen have styled it. I was much surprised at the reflections which you made upon the subject, as I am conscious that I have done nothing in my life that could make me contemptible in the eyes of any honest man. I suppose that your strange opinion of me originates from the misfortune I have of not being better known to you. However I shall always cherish the cause I fought for, and shall be very happy to hear of its success.

I am, with much regard, Sir,

Your obedient, humble servant

T. Conway.

[Endorsed] Letter from T. Conway to Charles Carroll Esq. :, or in his absence to Secretary of Congress, Nov. 14th, read 24th Nov. 1777. General Conway to be requested to attend the Board.[1]

YORKTOWN, November 26th, 1777.

DEAR SIR :

I had the pleasure to write to you yesterday that Cornwallis was gone to attack Red Bank. Just this moment we learn that the fort was evacuated last Friday. This intelligence comes by officers who have left the army few days ago, and nobody doubts it. The gallies are gone up to Burlington, so the river is entirely in the power of Howes.

I have just seen a French officer who left the army last week. He says confusion and bad discipline prevailed too much to expect anything good, and in every case it is almost impossible to attack Howe in Philadelphia, though everybody cries against poor General Washington.

Conway is at Reading and has left the army, but the Congress conscious of their love in so able man intend to offer him the [word illegible] employment of Adjutant General, and I think he will receive it. With him, and the Board of War filled by Gates, Mifflin and some other experienced officer, the army will be this winter altered for the best. Some reinforcements from the Northern army are with General Washington. I have an opportunity to send down to Baltimore this piece of intelligence by a gentleman who sets off in two minutes, and leaves only the time to assure you that I am for life, with a sincere respect,

Dear Sir, your most obedient servant,

PLIARNE.

[1] MSS :, Department of State.

P. S.—My best respects to Mrs. Darnall, to whom I beg Mr. Carroll to deliver the message to. My compliments to Captain Ireland. The Congress has received intelligence that last week the English made a sortie from Philadelphia and burnt all the houses upon the Germantown road, about Mr. Dickinson's seat, which has the same fate. They were the finest country-houses in that part.

To Charles Carroll of Carrollton, Senior, Esq.
At Elkridge,
To the care of Miss Godard,
At the Post Office, Baltimore.[1]

The Maryland Assembly met on Wednesday, October 22d, 1777, but it was not until the 31st that Charles Carroll of Carrollton took his seat in the Senate. Charles Carroll, barrister, arrived still later, on November 7th. The act to procure clothing for Maryland's quota in the Continental army passed the Senate on the 24th of November, and was probably drafted by Charles Carroll of Carrollton, who carried it to the House on this day. Daniel Carroll of Rock Creek was elected to the Council at this time, making three of the name in the Maryland government.

A commission was proposed at this session, to settle with Virginia the disputed questions of the jurisdiction and free navigation of the rivers Potomac and Pocomoke, and the Chesapeake Bay. The "Articles of Confederation and Union between the United States," were received from Congress, with resolutions of that body for raising a sum of money

[1] Maryland Historical Society.

by taxation for supplying the army with clothing; for regulating the prices of commodities throughout the United States; and for the confiscation and sale of forfeited estates.[1] These papers were all taken to the House of Delegates by Charles Carroll of Carrollton. The members of Congress were elected on the 5th of December. These were Samuel Chase, William Paca, George Plater, Charles Carroll of Carrollton, Thomas Stone, and Joseph Nicholson.

Amendments to an "act for the better security of the government," requiring Quakers and others to take the oath of allegiance, or forfeit a part of their property, were defeated in the Senate a few days later, Charles Carroll of Carrollton, George Plater, William Paca, and Turbutt Wright voting for their passage.

On the 16th of December a message was received from the House relative to the recommendation of Congress that Commissioners from Virginia, Maryland, and North Carolina should meet at Fredericksburg on the 15th of the following month, to regulate and ascertain the price of labor, manufactures, internal produce, and commodities imported from abroad. Other business in which Charles Carroll of Carrollton is seen to have been prominent, occupied the Senate up to the 19th, when the subject of appointing the Commissioners to meet those of Virginia, to settle the jurisdiction of the rivers and bay dividing the two States, was taken up. Charles Carroll of Carrollton, Thomas Stone, and Brice Thomas Beale Worthington were nominated a committee by the

[1] Journal of the Maryland Senate.

Senate to unite with one from the House to draw up instructions for the guidance of the Maryland Commissioners. Daniel of St. Thomas Jenifer was afterwards substituted for Brice Thomas Beale Worthington. And on the 21st, Jenifer, Stone, and Chase were elected Commissioners. It was resolved "that they will meet the Commissioners of Virginia at Alexandria, on Monday, 2nd of February next or at any other time or place more convenient to the Virginia Commissioners."[1] Charles Carroll of Carrollton carried these resolutions to the House, and on the 22d, the day before the Assembly adjourned, he brought in the report of the committee to prepare instructions for the Commissioners. They consisted of a preamble and three "particulars."

"First, that Virginia should relinquish the claim to impose tolls on vessels sailing through the capes of Chesapeake Bay, either to or from Maryland; Second, that the Commissioners should endeavor to settle the jurisdiction over that part of the Bay lying within the limits of Virginia; that crimes committed there against subjects of Maryland, either by Marylanders or any other persons not subjects of Virginia, should be tried in the courts of Maryland. And thirdly, that the use and navigation of the two rivers dividing Maryland and Virginia should be free to the subjects of both States, as well as to all other persons trading to either State, each State having the right of imposing tolls, duties or customs on vessels coming into its respective ports on these rivers."[2]

On the 22d of December also, the delegation to Congress was altered by the substitution of James

[1] *Ibid.* [2] *Ibid.*

Forbes and John Henry for William Paca and Joseph Nicholson who had declined the election.

Charles Carroll made his appearance in Congress, January 17th, 1778, accompanied by James Forbes, the earliest of the Maryland delegation to take their seats at this session. John Henry arrived January 20th, and on that day Congress resolved that two members be added to the committee appointed, by a resolution of the 10th of January, to repair to camp and inquire into the state of the troops. The two gentlemen added to the committee were Charles Carroll of Carrollton and Gouverneur Morris. The three original members of the committee were Francis Dana, Joseph Reed, and Nathaniel Folsom. Congress had decided "that it was essential to the promotion of good discipline and economy in the army of these States, that speedy and effectual means be taken for reducing the number of regiments in Continental service and reforming abuses which have long prevailed in different departments of the army."[1] To this end the three members of Congress, with three members of the Board of War, were made a committee, to attend at General Washington's headquarters, and in concert with him, form and execute a plan for the purpose above stated. Charles Carroll of Carrollton remained nearly three months at Valley Forge, on this business. Washington prepared a memoir of fifty folio pages in the form of a letter to the committee, containing his views and those of his officers, and this paper was used by these gentlemen and became the basis of their report.[2]

[1] Journal of Congress, January 10th, 1778.

[2] Ford's "Writings of Washington," vol. vi., p. 300.

We find Charles Carroll again in his seat, April 13th, and Gen. Charles Lee, in writing to the President of Congress about his exchange, April 17, 1778, asks him "to put the affair into the hands of some of my particular friends, Mr. Lee, Mr. Carroll or Mr. Chase."[1] These gentleman, Richard Henry Lee, Charles Carroll of Carrollton, and Samuel Chase were, of course, wholly ignorant, as were most of General Lee's contemporaries, of the real character of the false-hearted Englishman who thus claimed them as his "particular friends." It was at Valley Forge in the early part of January, before Charles Carroll arrived there, that Generals Gates, Charles Lee, and Conway first met to mature their plans for displacing Washington. But imprudent words used by an aid-de-camp of Gates, and reported by a friend of Washington to his chief, with a letter of Conway to Gates which fell into Washington's hands, disclosed the plot in time to render it abortive.

Of the Cabal, as far as it affected the members of Congress, we have no certain information. A recent Maryland historian writes: "The movement was headed by the Lees and Adamses; but it was resisted and ultimately defeated by Charles Carroll of Carrollton, Morris and Duer."[2] Great injustice is here done to the Lees of Virginia, whatever may be said of the Adamses. Richard Henry Lee denied any knowledge of the existence of such a design among the members of Congress, as did Benjamin Harrison and others. Certainly, if such a faction

[1] The Lee Papers, vol. ii., p. 390. New York Historical Society Collections.

[2] Scharf's "History of Maryland," vol. ii., p. 342.

existed, the Virginians were no parties to it. Without doubt, Charles Carroll of Carrollton was a firm friend always of the Commander-in-chief, admiring his abilities and integrity, and fully believing in his fitness for his high position. And it may be safely assumed that he used his influence to support General Washington against those who antagonized him, whether in camp or in Congress.

The following letters were written by Charles Carroll of Carrollton to Governor Johnston in April and May, 1778, and give an insight into the operations of Congress at this time, with other items of public interest.

YORK, 21st April, 1778.

DEAR SIR:

By a letter from General Smallwood of the 17th instant from Wilmington, we are informed of an insurrection of the Tories, at a place called Jordan's Island, ten miles from Dover. Smallwood apprehends this insurrection may become very serious unless speedily suppressed. This letter is referred to a committee of which I am one. We shall report that you be requested to call out 300 of the militia from the adjacent counties of Maryland and put them under a spirited and active officer who will receive his instructions from a committee of Congress. I beg your attention to this business. Smallwood writes that we have considerable stores at Charles Town, which he fears may be taken or destroyed by these insurgents. If we have any considerable stores at Charles Town, or at any other place near the Bay, they run an equal or greater danger of being destroyed by parties from the enemy's shipping. You cannot take too much precaution to secure these or any other stores that may be near the water.

Mr. Henry has sent you a copy of draughts of two bills, which as they are of a most insiduous tendency, I make no doubt have long since been passed into Acts of Parliament. I wish you would employ some ingenious writer to combat and expose the perfidiousness of our enemies; they stop at nothing, the whole British nation seems rising against us. They will unite art and force to conquer us. I am persuaded they will send over during the course of the summer and fall, at least 14,000 men, principally British. Is it not strange that the lust of domination should force the British nation to greater exertions, than the desire of liberty can produce among us?

By the *Mercury* packet in seven weeks and three days from Falmouth, we hear that all hopes of an amicable settlement between the Turks and Russians were at an end. By a courier who arrived at Warsaw the middle of December, there was reason to believe hostilities had then, or were on the point of being commenced. The Elector of Bavaria is dead; his death may possibly involve Germany in a war.

If our people would but exert themselves this campaign, we might secure our liberties forever. General Washington is weak; reinforcements come in slow. Try for God's sake and the sake of human nature, to rouse our countrymen from their lethargy. Gates will command a body of men in the Highlands on Hudson's River, for the security of its navigation. The Congress do worse than ever; we murder time and chat it away in idle, impertinent talk. However, I hope the urgency of affairs will teach even that body a little discretion.

I wish you health and happiness, and am with great regard, Dear Sir, your most humble servant,

CH. CARROLL OF CARROLLTON.[1]

[1] Maryland Historical Society.

April 23d, 1778.

DEAR SIR :

By this opportunity you will receive draughts of two bills and Lord North's speech ushering them into the House of Commons. I have little doubt myself but that these bills have long since been clothed with all the formalities of law. If Lord North's speech is genuine (and I think we have no reason to suspect it to be otherwise) we may fairly conclude that the Administration begin to see the impractibility of reducing these States, or of retaining them, when reduced, in such a state of subordination as to be useful to Great Britain. The heavy and increasing expence of the war, a jealousy of France and Spain, perhaps the appearance of an approaching rupture in Germany about to be occasioned by the death of the Elector of Bavaria, the actual commencement of hostilities between Russia and the Porte, have forced the British Ministry on this measure. However I am satisfied they will try the arts of negotiation first, in order to divide us, if possible, and will hazard another campaign, before they acknowledge the independence of these States.

To withstand their hostile efforts this campaign, which I am convinced will be vigorous, and to counteract their insiduous proffers of reconciliation, it will be absolutely necessary to have a very respectable force in the field this year, and if a right and dexterous use is made of the Minister's speech, it will probably much promote the recruiting service among us. In a word if we guard against their insiduous offers on the one hand, and can resist their warlike efforts on the other during the ensuing campaign, I have not the least doubt but that they will acknowledge our independency next winter, or spring, particularly if no alliance between these States or any other European power be concluded on in the interim.

The *Raleigh* continental frigate is arrived at Portsmouth in thirty-two days from France; the *Alfred* which sailed with her is taken. We have not yet received by this opportunity any dispatches from our Commissioners at Paris, though I do not yet despair of receiving them, as the express may be on the road. The Congress has passed some observations on the two draughted bills, to counteract their obvious design, or at least the possible bad effects they might produce in the minds of the people, if published without such strictures. These observations will be printed to-day; they will be immediately distributed throughout the United States. I fear they are not so perfect as they ought to be, but the hurry of business, and the want of time must, and will, no doubt, sufficiently apologize with an impartial public, for all their imperfections. I am with real regard, dear Sir,

Your most humble Servant,

CH CARROLL OF CARROLLTON.[1]

Monday, 27th April, 1778.

DEAR SIR:

We have your letter and have written this day to Mr. Morris for the articles therein mentioned. Our letter is gone by an express which the president had occasion to send in order to return the original of the enclosed copy of a letter from Gov. Johnstone to Mr. Morris. Your application to Congress for $100,000 shall be laid before Congress to-morrow. We will write you the result by the first opportunity. Gen. Amherst, Gen. Murray and Admiral Keppel are the commissioners coming out under the Act of Parliament for offering terms of peace and

[1] *Ibid.* The original was sent to Jared Sparks to be used "in a volume of Fac Similies which the said Sparks designs to publish of Letters of distinguished Revolutionary characters."

reconciliation. Gen. Howe is recalled and Sir Henry Clinton is to succeed him, but I apprehend only till Genl. Amherst's arrival. I think as he is one of the Commissioners, he will have the supreme command of the army.

I think we may fairly conclude from Gov. Johnstone's letter and from the articles in the newspapers which you have seen, that some treaty or the preliminaries of a treaty, have been entered into between France and our commissioners. We have had no letters from them since last May; several, no doubt, have been intercepted. The Administration getting wind of this treaty, have been induced thereby to offer terms to this country; but no terms short of independence are, in my opinion, admissible without the utmost danger and disadvantage to these States.

I am with great esteem, dear Sir,

Yours etc.,

CH. CARROLL OF CARROLLTON.

N. B. Do not print Gov. Johnstone's letter, as it is a private letter. Genl. Lee is exchanged for Genl. Prescot.[1]

1778, 11th May.

DEAR SIR:

Mr. Brown of Annapolis has applied to me to intercede with you or some gentlemen of the Council, to grant him leave to go to Philadelphia, from which place he may embark for England. I would not endeavour to persuade or influence you or any man to do what I would not do in a similar situation. I think Mr. Brown's request highly reasonable; from indulging it no possible inconvenience can result to the public. If it should be thought necessary Mr. Brown may be put on oath not to divulge to the enemy anything of importance that may

[1] *Ibid.*

come to his knowledge respecting our situation or preparations. It seems to be very hard to detain a man in a place in which he is cut off from all intercourse with his friends and connections and even from the means of subsisting. If this matter should appear to you in the same light it strikes me, neither you or the Council will make the least difficulty in granting Mr. Brown his request.

Yesterday Mr. Henry sent to Mr. William Lux by one David Poe, thirty six thousand dollars, part of the one hundred thousand obtained lately from Congress. Mr. Henry wrote by the same opportunity to Mr. Lux desiring him to forward the money on to you as soon as possible.

I sincerely rejoice with you on the treaty entered into with France, and on the favorable dispositions of the most considerable European States. For news I refer you to my letter to Mr. Chase, which I shall write tomorrow morning, as I understand an express from our General is on his way to Congress.

I am with great regard and esteem, dear sir,

Your most humble servant,

CH. CARROLL OF CARROLLTON.[1]

[1] *Ibid.*

APPENDIX A.

LETTERS OF THE "FIRST CITIZEN"

FROM

THE *Maryland Gazette*

OF

1. FEBRUARY 4TH, 1773.
2. MARCH 11TH, 1773.
3. MAY 6TH, 1773.
4. JULY 1ST, 1773.

APPENDIX B.

JOURNAL OF CHARLES CARROLL OF CARROLLTON.

1776.

LETTER I.

February, 4th, 1773.

The First Citizen to the Editor of the Dialogue between Two Citizens :

Sir, the intention of this address is not to intice you to throw off a fictitious and to assume a real character, for I am not one of those who have puzzled themselves with endless conjectures about your mysterious personage ; a secret too deep for me to pry into, and if known, not of much moment ; of as little is it in my opinion whether your complexion be olive or fair, your eyes black or gray, your person strait or incurvated, your deportment easy and natural, insolent or affected. You have, therefore, my consent to remain concealed under a borrowed name, as long as you may think proper. I see no great detriment that will thereby accrue to the publick ; *you* will be the greatest, nay, the only sufferer ; your fellow citizens, ignorant to whom they stand indebted for such excellent lucubrations, will not know at what shrine to offer up their incense, and tribute of praise ; to you this sacrifice of glory will be less painful, as *you are not actuated by vanity or a lust for fame*, and in obscurity you will have this consolation still left, the enjoyment of conscious merit, and of self-applause. Modest men of real worth are subject to a certain diffidence, called by the French *la mauvaise honte*,[1] which frequently prevents their rising

[1] An awkward bashfulness.

in the world ; you are not likely, I must own, to be guilty of that fault ; *in vitium ducit culpæ fuga* [1]; you seem rather to have fallen into the other extreme, and to be fully sensible of the wisdom of the French maxim, *il faut se faire valoir* [2] which for the benefit of my English readers I will venture to translate thus, "a man ought to set a high value on his own talents." This saying is somewhat analogous to that of Horace : *Sume superbiam quæsitam meritis.*[3] As your manner of writing discovers a vast erudition, and extensive reading, I make no doubt you are thoroughly acquainted with the Latin and French languages, and therefore a citation or two from each may not be unpalatable. Having paid these compliments to your literary merit, I wish it were in my power to say as much in favor of your candour and sincerity. The editor of the dialogue between the two Citizens it seems, is the same person, who *overheard and committed to writing the conversation.* I was willing to suppose the editor had his relation at *second hand*, for I could not otherwise account for the lame, mutilated and imperfect part of the conversation attributed to me, without ascribing the publication to downright malice, and wilful misrepresentation. Where I can, I am always willing to give the mildest construction to a dubious action. The editor has now put it out of my power of judging thus favorably of him, and as I have not the least room to trust to his impartiality a second time, I find myself under the necessity of making a direct application to the press, to vindicate my intellec-

[1] Hor., "A. P.," 31 *(In vitium ducit culpæ fuga si caret arte).* The avoiding one fault is apt to lead into another.

[2] In the text these words have received a liberal interpretation ; they mean strictly that a person should assume a proper consequence.

[3] Hor., "C.," iii., 30, 14. May be translated—Assume a pride to merit justly due.

tual faculties, which no doubt have suffered much in the opinion of the publick (notwithstanding its great good nature) from the publication of the above mentioned dialogue.

The sentiments of the First Citizen are so miserably mangled and disfigured, that he scarce can trace the smallest likeness between those which really fell from him in the course of that conversation, and what have been put into his mouth.

The First Citizen has not the vanity to think his thoughts communicated to a fellow citizen in private of sufficient importance to be made publick, nor would he have had the presumption to trouble that awful tribunal with his crude and indigested notions of politics, had they not already been thus egregiously misrepresented in print. Whether they appear to more advantage in their present dress, others must determine ; the newness of the fashion gives them a quite different air and appearance ; let the decision be what it will, since much depends on the manner of relating facts, the First Citizen thinks he ought to be permitted to relate them his own way.

1st Citizen : I am sorry that party attachments and connexions have induced you to abandon old principles ; there was a time, Sir, when you had not so favorable ar opinion of the integrity and good intentions of Government as you now seem to have. Your conduct on this occasion makes me suspect that formerly *some men*, *not measures*, were disagreeable to you. Have we reason to place a greater confidence in our *present rulers*, than in those to whom I allude ? Some of the present set (it is true) were then in power, others indeed were not yet provided for, and therefore a push was to be made to thrust them into office, that all power might centre in *one family*. Is all your patriotism come to this ?

2nd Citizen: I do not like such home expostulations, convince me that I act wrong in supporting Government and I will alter my conduct, no man is more open to conviction than myself—(Vide Dialogue to the words—"Would be all fair argument.")[1]

1st Citizen: I am not surprised that the threadbare topics of arbitrary princes, and proclamations, should give you uneasiness. You have insinuated that the repetition of them is tiresome, but I suspect the true cause of your aversion proceeds from another quarter. You are afraid of a comparison between the *present ministers* of this province, and *those* who influenced Charles the First, and brought him to the block; the resemblance, I assure you, would be striking. You insinuate that "*The opinions of the greater Council in England*" are come to hand, in favour of the Proclamation, and 40 per poll, and you seem to lay great stress on those opinions. A little reflection and acquaintance with history will teach you, that the opinions of *Court Lawyers* are not always to be relied on; remember the issue of *Hambden's* trial, "*The prejudiced or prostituted judges (four excepted),*" says Hume, "*gave sentence in favour of the Crown.*" The opinion even of a Camden, will have no weight with me, should it contradict a settled point of constitutional doctrine. On this occasion I cannot forbear citing a sentence or two from the justly admired author of the "Considerations," which have made a deep impression on my memory. "*In a question* [says that writer] *of public concernment, the opinion of no Court Lawyer, however respectable for his candour and abilities, ought to weigh more than the reasons adduced in support of it.* He then gives his reasons for this assertion; to avoid prolixity I must

[1] The reference here is to the "Dialogue between Two Citizens," or the first paper of Daniel Dulany's, *Maryland Gazette*, January 7th.

refer you to the pamphlet; if I am not mistaken you will find them in page 12. Speaking shortly after of the opinions of Court Lawyers upon *American affairs*, he makes this pertinent remark. "They [Court Lawyers' opinions] *have been all strongly marked with the same character; they have been generally very sententious, and the same observation may be applied to them all, they have declared* THAT *to be* LEGAL *which the minister for the time being has deemed to be* EXPEDIENT." Will you admit *this to be fair argument?*

2nd Citizen: I confess it carries some weight with it; I cannot with propriety dispute the authority on which it is founded; make, therefore, the most of my concession. Should I admit your reasoning on this head to be just, does it follow that the Court and Country interests are incompatible, that Government and Liberty are irreconcilable? Is every man, who thinks differently from you on publick measures, influenced or corrupted?

1st Citizen: "*God forbid it should be the case of every individual.*" I have already hinted at the cause of your attachment to Government; it proceeds, I fear, more from personal considerations than from a persuasion of the rectitude of our Court measures; but I would not have you confound Government with the officers of Government; they are things really distinct, and yet in your idea, they seem to be one and the same.

Government was instituted for the general good, but officers intrusted with its powers have most commonly perverted them to the selfish views of avarice and ambition; hence the Country and Court interests, which ought to be the same, have been too often opposite, as must be acknowledged and lamented by every true friend to liberty. You ask me are Government and Liberty incompatible? Your question arises from an abuse of

words, and confusion of ideas; I answer that so far from being incompatible, I think they cannot subsist independent of each other. A few great and good princes have found the means of reconciling them even in despotic States; Tacitus says of Nerva: "*Res olim dissociabiles miscuit principatum ac libertatem.*"[1] A wicked minister has endeavoured, and is now endevouring in this *free government*, to set the power of the supreme magistrate above the laws; in our mother country, such ministers have been punished for the attempt with infamy, death, or exile. I am surprised, that he who imitates *their* example, should not dread *their* fate.

2nd Citizen: This is not coming to the point, you talk at random of dangers threatening liberty, and of infringements of the Constitution, which exist only in your imagination. Prove, I say, *our ministers* to have advised unconstitutional measures, and I am ready to abandon them and their cause; but upon your *ipse dixit*, I shall not admit those measures to be unconstitutional, which you are pleased to call so, nor can I allow all these to be Court hirelings, whom you think proper to stigmatize with that opprobrious appellation, and for no other reason but that they dare exercise their *own judgment in opposition to yours*. (Read the 2d Citizen's harangue from the last words—*opposition to yours*—to the following inclusively—*sweat of his brow.*)[2]

1st Citizen: What a flow of words! how pregnant with thought and deep reasoning! If you expect an an-

[1] Tacitus, "Agricola," ch. 3 (*quamquam . . . Nerva Cæsar res olim dissociabiles miscuerit, principatum ac libertatem*).

Thus translated by Gordon; Nerva blended together two things once found irreconcilable—Publick Liberty and sovereign Power.

[2] "Dialogue between Two Citizens," *Maryland Gazette*, January 7th.

swer to all the points on which you have spoken, you must excuse my prolixity, and impute it to the variety of matter laid before me. I shall endeavour to be concise, and if possible avoid obscurity. You say, *I know not what or whom I mean by we, and the friends of the Constitution;* I will tell you, Sir, whom I do not mean, from whence you may guess at those whom I do. By friends of the Constitution I mean, not those, whose selfish attachment to their interest has deprived the publick of a most beneficial law, from the want of which, by your own account, "*our staple is fallen into disgrace in foreign markets, and every man's property in a degree decreasing and mouldering away.*" I mean not, *those few*, out of tenderness and regard to whom, the general welfare of this province has been sacrificed; to preserve *whose* salaries from diminution, the fortunes of all their countrymen have been suffered to be impaired; I mean not *those*, who advised a measure which cost the first Charles his crown and life; and who have dared to defend it upon principles more unjustifiable and injurious than those, under which it was at first pretendedly palliated. You see, Sir, I adopt the maxim of the British Constitution, *The King can do no wrong;* I impute all the blame to his ministers, who if found guilty and *dragged to light*, I hope will be made to feel the resentment of a free people. But it seems, from your suggestion, that we are to place an unlimited trust in the men, whom I have pretty plainly pointed out, because they are men of great wealth, and have "*as deep a stake in the safety of the Constitution as any of us.*" Property even in *private* life, is not always a security against dishonesty; in *publick*, it is much less so. The ministers, who have made the boldest attacks on liberty, have been most of them, men of affluence; from whence I infer, that riches, so far

from insuring a minister's honesty, ought rather to make us more watchful of his conduct.

You go on with this argument, and urge me thus, "*Do I conceive that such men can possibly be hired unless they be overtaken by infatuation, to engage to pull down a fair and stately edifice, with the ruins of which, as soon as it is levelled to the ground, they and their families are to be stoned to death.*" I have read of numberless instances of such infatuation; there are now *living examples* of it; the history of mankind is full of them; men in the gratification of sensual appetites, are apt to overlook their future consequences; thus for the present enjoyment of wealth and power, liberty in reversion will be easily given up; besides, a perpetuity in office may be aimed at; hopes may be entertained that the *good thing*, like a precious jewel will be handed down from *father* to *son*. I have known men, of such meanness, and of such insolence (qualities often met with in the same person) who exclusive of the above motives, would wish to be the first slave of a sultan, to lord it over all the rest; power, sir, power is apt to pervert the best of natures; with too much of it I would not trust the milkiest man on earth; and shall we place confidence in a *minister* too long inured to rule, grown old, callous and hackneyed in the crooked paths of policy?

2nd Citizen: "*I do not chuse to answer this last question.*" You grow warm and press me too close. But why is all your indignation poured out against our ministers, and no part of it reserved for the lawyers, those cutthroats, extortioners, those enemies to peace and honesty, those *rei publicæ portenta ac pæne funera*,[1] to use the energetic words of Tully, because I can find none

[1] Cic., Prov. Cons., 1, 2. (*Gabinius et Piso duo rei publicæ portenta ac pæne funera.*)

in English to convey my full meaning, but by comparing *our harpies* to those two monsters of iniquity, Piso and Gabinius.

Mr. Melmoth, the elegant translator of Cicero's familiar letters, makes this remark on the 8th letter of the first book, Vol. I. "Cicero has delineated the characters at large of these consuls (Piso and Gabinius) in several of his orations, but he has in two words given the most odious picture of them that exasperated eloquence perhaps ever drew where he calls them 'duo rei publicæ ac pæne funera'—an expression for which modern language can furnish no equivalent."

1st Citizen: From this vehemence of yours, I perceive you are one of those who have joined in the late cry against lawyers; from what cause does all this rancour and animosity against these gentlemen proceed? Is it a real tenderness for the people, which has occasioned such scurrility and abuse? Or does your hatred, and that of your kidney, arise from disappointment and the unexpected alliance between the lawyers and the people, in opposition to officers. This alliance, I know, has been termed unnatural, because it was thought contrary to the lawyers interests to separate themselves from the officers; since a close and firm union between the two, would probably secure success against all patriotic attempts to relieve the people from their late heavy burthens, of which too great a part still subsists.

2nd Citizen: "*For heaven's sake to what purpose is all this idle talk? You well know it does not touch us, we are not galled, and therefore need not wince.*" But reconcile if you can, the inconsistency of conduct, with which some of your favourites may be justly reproached; I have one or two in my eye *(great patriots)* whose conduct, I am sure, will not bear a strict scrutiny. *I can tell them*

with truth. (Vide dialogue from the last words, to these —" glorious and patriotic particulars.")[1]

1st. Citizen: Is it a crime then to be seen in the company of certain great officers of government? Surely their principles must be pestilential indeed, whose very breath breeds contagion. But you can name "the very appointments they have laid their fingers upon, you are well apprized of their eager impatience to get into office;" if you are well assured of all this, if you can name the appointments, why, in God's name, do it: speak out at once, undeceive me, show me that I have mistaken my men, that I have been imposed on. For never will I deem that man a fast and firm friend to his country or fit to represent it, who under their circumstances applies for, or accepts an office from government; the application for or the acceptance of a place by the persons alluded to would, in my opinion, as much disqualify them for so important a trust, as the duplicity of character which you lay to their charge.

2nd Citizen: Do not mistake my meaning, or wilfully misrepresent it; I do not pretend to insinuate, that a person accepting a place thereby becomes unfit for a representative, but that no dependence can be placed in one who declaims with virulence against *officers*, and yet would readily take an office.

1st. Citizen: So I understood you; have I put a different construction on your meaning?

2nd Citizen: Not expressly, but you seem to think the acceptance of a place as exceptionable, as duplicity of conduct; I am not quite of that opinion.

1st Citizen: There we differ then; I esteem a double dealer, and an officer equally unfit to be chosen a mem-

[1] "Dialogue between Two Citizens," *Maryland Gazette*, January 7th.

ber of Assembly ; for this opinion I have the sanction of an act of Parliament, which vacates the seat of a member in the House of Commons on his obtaining a post from Government, presuming that men under the bias of self interest, and under personal obligations to government, cannot act with a freedom and independence becoming a representative of the people. The act, it is true, leaves the electors at liberty to return the same member to Parliament, in which particular (be it spoken with due deference) it is more worthy our censure than our imitation ; I have a wide field before me, but I perceive your patience begins to be exhausted, and your temper to be ruffled. I have told some disagreeable truths with a frankness which may be thought by a person of *your steadiness and importance*, somewhat disrespectful ; I leave you to ponder in silence, and at leisure on what I have said. Farewell.

LETTER II.

—" *Though* SOME *counsellors will be found to have contributed their endeavours, yet there is* ONE *who challenges the infamous preeminence, and who by his capacity*, craft, and arbitrary counsels,[1] *is entitled to the first place among these betrayers of their country*."—Hume's " Hist. of Eng.," vol. v., p. 243, 4to edit.

The most despotic councils, the most arbitrary measures, have always found some advocates, to disgrace a free nation. When these men, in the room of cool, and dispassionate reason, substitute virulent invective, and illiberal abuse, we may fairly presume, that arguments are either wanting, or that ignorance and incapacity know not how to apply them.

Considering the known abilities, as a writer of the person pointed out to be the principal adviser of the " Proclamation," considering too, his legal and constitutional knowledge, we can hardly suppose, if solid reasons could be adduced in support, or extenuation, of that measure, but what they would have been urged, with all the force of clear, nervous and animated language. There will not, I imagine, be wanting lawyers, to undertake a refutation of Antillon's legal reasoning in favor of the

[1] The words in small roman letters are substituted instead of the words *enterprise*, and *courage*, made use of by the historian.

Proclamation ; I shall therefore examine his defence of it, rather upon constitutional principles, and endeavor to show, that it is contrary to the spirit of *our constitution*, in particular, and would, if submitted to, be productive of fatal consequences ; but previous to my entering upon this inquiry, it will be necessary to expose the "*shameless effrontery*" with which Antillon has asserted facts, entirely destitute of truth, and from which he has taken occasion to blacken the character of a gentleman, totally unconnected with the present dispute. Who that gentleman is, no longer remains problematical ; the place of his education, and his age, have been mentioned, to fix the conjectures of the publick, and to remove all doubt. "He instigated by inveterate malice, has invented falsehoods for incorrigible folly to adopt, and indurated impudence to propagate," of this Antillon has confidently accused him, but upon what proof ? on no other than his own conjecture.

The First Citizen avers (and his word will be taken sooner than Antillon's) that he wrote the dialogue between two citizens published in the *Maryland Gazette* of the 4th instant, without the advice, suggestion, or assistance of the supposed *author* or *coadjutor*. But the First Citizen and the Independent Whigs are most certainly confederated ; they are known to each other ; an assertion this, Antillon, equally rash and groundless with your former. Why do you suppose this confederacy ? From a similitude of sentiments with respect to your conduct, and Proclamation ? If so, then indeed are nine-tenths of the people of this province confederated with the First Citizen. The Independent Whigs, however, as it happens, are unknown to the First Citizen ; of their paper he had not the least intelligence, till he read it in the *Maryland Gazette* of the 11th instant. He now takes

this opportunity of thanking these gentlemen for the compliments, which they have been pleased to bestow on his endeavors, to draw the attention of the publick, from other objects, to the real authors, or rather *author* of all our evils.

With what propriety, with what justice can Antillon reproach any man with malignity, when stimulated by that passion, he accuses others without proof of being confederated with the First Citizen, and from mere suspicion of so treasonable a confederacy, vomits out scurrility and abuse against imaginary foes? Not content with uttering falsehoods, grounded solely on his own presumption, he has imputed the conduct of "*one of the confederates*" to a motive, which, if real, can only be known to the great searcher of hearts. This *confederate* is represented as "wishing most devoutly" (a pious and Christian insinuation) for an event of all others the most calamitous, the death of a most loved parent; ungenerous suggestion, unfeeling man! do you really entertain such an opinion of the son? Do you desire, that the assigned cause of the imputed wish should have its intended effect, create uneasiness, a coolness or distrust? What behavior, what incident, what passage of his life, warrant this your opinion of the son, supposing it to be real? That they have always lived in the most perfect harmony, united by nature's strongest ties, parental love, filial tenderness and duty, envy itself must own. *That father*, whose death the son devoutly wishes for, never gave him cause to form a wish so execrable; he has been treated with the utmost affection and indulgence by the father; in return for all that tenderness and paternal care—

> "Him let the tender office long engage,
> To rock the cradle of reposing age;

With lenient art extend a father's breath,
Make languor smile, and smoothe the bed of death."

POPE.

I cannot conceive what "the generous and spirited behavior of one of the confederates" (who, by the bye, is no confederate) on a former occasion, has to do with the present question, unless to divert the attention from the subject, or to introduce a specimen of satire and falsehood prettily contrasted in antitheses. The period, I confess, runs smooth enough; but Antillon, let me give you a piece of advice, though it comes from an enemy, it may be useful; whenever you mean to be severe, confine yourself to truth, illiberal calumny recoils with double force on the calumniator. An expression of the First Citizen has been construed into a "*preparation*" to malign the minister's son; if this intention could be fairly gathered from the words inserted in the note [1] (and there are no other to give the least color to the charge) it would cause the First Citizen unfeigned concern. To wipe off the imputation, I must beg leave to refer the reader to the dialogue published by the First Citizen; he will there see that the Second Citizen intimates, a confidence ought to be placed in *our ministers*, because they are men of property, "and have as deep a stake in the safety of the Constitution as any of us."

In answer to this reasoning the First Citizen observes, that a minister's wealth is not always a security for his honesty; because, to increase that wealth, to maintain his seat, and to aggrandize his own, he may be tempted to enlarge the powers of the Crown (the First Citizen speaks generally), more especially should he (the minister) have any expectation of transmitting his post to one

[1] "Hopes may be entertained that the *good thing* like a precious jewel will be handed down from father to son."

of his own family, to his son, for instance. "It has been the maxim" (says a judicious historian[1]) of "English princes whenever popular leaders encroach too much on royal authority, to confer offices on them, in expectation that they will afterwards become more careful, not to diminish *that power* which has become *their own*." It is not even asserted, that the minister does actually entertain a hope of securing his office to his son, but that, possibly, he may entertain such a hope. It may be impolitic in the Supreme Magistrate, to grant offices to many of, and to continue them in the same family, but it is natural for the head of that family to wish it; if even to wish to transmit an office to his son, should be thought culpable in the father, yet still is the son exempt from all blame.

I must answer a question or two, put by Antillon, before I go into an examination of his reasons in support of the Proclamation, that the argument may be as little interrupted, and broke in upon, as possible, by topics foreign to that inquiry. Antillon asks, "What do the Confederates mean [he should have said what does the First Citizen mean] by dragging to light—made to feel the resentment of a free people—endeavour to set the power of the Supreme Magistrate above the laws—dread of such fate." Answer—By *dragging to light*, nothing more was meant, than that the House of Delegates should again endeavour, by an humble address to the Governor, to prevail on him to disclose the ill adviser, or "those ill advisers, who have most daringly presumed to tread on the *invaluable rights* of the freemen of Maryland."—"Made to feel the resentment of a free people" may need a little explanation; the sense of the subsequent quotations is sufficiently obvious. If the real *adviser*, or advis-

[1] Hume.

ers of the Proclamation, could be discovered, in my opinion (I do not mean to dictate, and to prescribe to the delegates of the people) they ought in justice to their constituents, humbly to address the Governor, to remove him, or them, from his counsels, and all places of trust and profit, if they be invested with such, not merely as a punishment on the present transgressor, or transgressors, but as a warning to future counsellors, not to imitate their example. I have dwelt the longer on the meaning of the words—"made to feel the resentment of a free people," because I perceive pusillanimity and conscious guilt have inferred from the expression, "a sanguine hope in the 'Confederates' that the free people of Maryland will become a lawless mob at their instigation, and be the dupes of their infernal rage."

Sleep in peace, good Antillon, if thy conscience will permit thee; no such hope was conceived by, a thought of the sort never entered the First Citizen's head, nor (as he verily believes,) of any other person. The First Citizen rejects with horror and contempt the cowardly aspersion. But should a mob assemble to pull down a certain house, and hang up the owner, methinks it would not be very formidable, when headed and conducted by a *monkey*, against a chief of such *spirit* and *resolution*. Sarcasms on personal defects have ever been esteemed the sure token of a base and degenerate mind; to possess the strength and graces of your person, the gentleman alluded to would not exchange the infirmities of his puny frame, were it on that condition, to be animated by a soul like thine.

I have at length gone through the painful task of silencing falsehood, exposing malice, and checking insolence. The illiberal abuse so plentifully dealt out by Antillon would have been passed over with silent contempt, had he

not so interwoven it with positive assertion of facts, that the latter could not be contradicted, without taking some notice of the former. I shall now examine Antillon's reasons in justification of the Proclamation, and after his example, I shall first compare the two transactions, the Proclamation, and the *assessment of ship-money*. That the latter was a more open and daring violation of a free constitution[1] will be readily granted; the former I contend to be a more disguised and concealed attack, but equally subversive, in its consequences, of liberty. Antillon's account of the levy of ship-money, though not quite so impartial as he insinuates, I admit in the main to be true. "The amount of the whole tax was very moderate, little exceeding £200,000; it was levied upon the people with justice and equality, and this money was entirely expended upon the navy, to the great honour and advantage of the kingdom." At that period the boundaries between liberty and prerogative were far

[1] The most open and avowed attacks on liberty are not perhaps the most dangerous. Where rigorous means, "the arbitrary seizure of property and the deprivation of personal liberty are employed to spread terror, and compel submission to a tyrant's will," they rouse the national indignation, they excite a general patriotism, and communicate the generous ardor from breast to breast; fear and resentment, two powerful passions, unite a whole people, in opposition to the tyrant's stern commands; the modest, mild, and conciliating manner in which the latent designs of a *crafty minister* come sometimes recommended to the publick, ought to render them the more suspected, "*timeo Danaos, et dona ferentes*": The gifts and smiles of a minister should always inspire caution and diffidence. There is no attempt, it is true, in the Proclamation "to subject the people indebted to the officers for services performed to any execution of their effects or *imprisonment* of their persons—*on any account*." If the judges however should determine costs to be paid, according to the rates of the Proclamation, *execution* of a person's effects or *imprisonment* would necessarily follow his refusal to pay those rates.

from being ascertained; the Constitution had long been fluctuating between those opposite and contending interests, and had not then arrived to that degree of consistency and perfection it has since acquired, by subsequent contests, and by the improvements made in later days, when civil liberty was much better defined and better understood. The assessment of ship-money received the sanction of the judges. "After the laying on of ship-money, Charles, in order to discourage all opposition, had proposed the question to the judges," whether in a case of necessity, for the defence of the kingdom, he might not impose this taxation, and whether he was not sole judge of the necessity. "These guardians of law and liberty, replied with great complaisance [reflect on this, good reader], "that in a case of necessity, he might impose that taxation, and that he was the sole judge of the necessity." The same historian, speaking of that transaction, concludes thus: "These observations alone may be established on both sides, That the appearances were sufficiently strong in favour of the King, to apologize for his following such maxims; and that publick liberty must be so precarious, under this exorbitant prerogative, as to render an opposition, not only excusable but laudable in the people." But I mean not to excuse the assessment of ship-money, nor to exculpate Charles; his conduct will admit of no good apology.

Now let us take a view of the Governor's Proclamation, advised by the minister, and of all its concomitant circumstances—a disagreement in sentiment between the two branches of our Legislature about the regulation of officer's fees, occasioned the loss of the inspection law in the month of November, 1770—Some proceedings in the land-office, had created a suspicion in the members of the Lower House of that Assembly then sitting,

"That the government had entertained a design, in case the several branches of the Legislature should not agree in the regulation of officer's fees, to attempt establishing them by Proclamation." To guard against a measure incompatible with the permanent security of property and the constitutional liberty of the subject, they in an address to his Excellency asserted, "That could they persuade themselves, that his Excellency could possibly entertain a different opinion, they should be bold to tell him, that the people of this province will ever oppose the usurpation of such a right." To which address the Governor returned this remarkable answer in his message of the 20th day of November, 1770, "That his lordship's authority had not yet interposed in the regulation of fees of officers, nor had he any reason to imagine it would interpose in such a manner as to justify a regular opposition to it."[1] Notwithstanding this declaration, a few days after the prorogation of that Assembly, the Proclamation of the 26th day of November (the subject of the present controversy) was issued contrary to a seeming promise given by the minister (for I consider the Governor's speeches and messages as flowing from his minister's advice) and contrary to the opinion entertained by the minister himself, of its legality. The accusation will not appear too rash, when we reflect on the abilities of the man, his experience, his knowledge of the law and Constitution, and his late flimsy and pitiful vindication

[1] From the words in the text, I think it is evident, the minister had at that very time determined on issuing the Proclamation; should he afterwards be reproached with a breach of promise, he had his answer ready, the Proclamation was not issued in *such a manner*, as to justify *a regular opposition*, it was only issued with a view to prevent the *extortion of officers*—for this reason I have called the minister's promise a *seeming* promise.

of the measure. He knew that a "similar Proclamation published in the year 1733 had agitated and disjointed this province till the year 1747. The evils, which were thereby occasioned, ought strongly to have dissuaded a second attempt, to exercise such power." Antillon has admitted this fact, and has attributed "the most violent opposition that ever a Governor of Maryland met with" to this very measure. "He [Ogle] was so well convinced of the authoritative force of the Proclamation, for settling fees of officers, that he expressly determined, as Chancellor, by a final compulsory decree, fees should be paid upon the authority, and according to the very settlement of the Proclamation," which, of his own will and mere motion he had pre-ordained as Governor.

What is the meaning of all this in plain English? Why that Ogle made himself both judge and party; like the French King, he issued out his edict as a law, which he enforced in his own court, as judge. I am unwillingly, and unavoidably drawn into the censure of a man, who by his subsequent conduct, which was mild and equitable, fully atoned for the oppressions (shall I call them errors) of his former administration. Antillon asks, "What did he [Ogle] deserve; infamy, death or exile?" No, not quite so severe punishment, Antillon; he only deserved to be removed from his government, and not even that punishment, if he was directed, advised, and governed by such a minister as thou art; for in that case, the disgrace, and removal of the minister would have been sufficient, and would probably have restored ease, security, and happiness to the people. But if Eden should follow Ogle's example, what then? Eden is a Governor, a Governor is a King, and a King can do no wrong, ergo, a Governor may cut the throats of all the inhabitants of Maryland, and then pick their pockets, and will

not be liable to be punished for such atrocious doings; excellent reasoning! exquisite wit and humor!

If you, Antillon, should still be hardy enough, to continue to inspire the same councils, which have already set this Province in a flame, and the Governor, when warned and cautioned against your pernicious designs, should still listen to your advice, in opposition to the wishes and inclinations of the people, over whom he has the honour to preside, I confess, I should be one of those, who most heartily wish for his removal. Does this look like flattery, Antillon? I scorn the accusation. The First Citizen has always treated his Excellency with that respect which his station commands, and with that complacence, which is due from one gentleman to another; to flatter, or to permit flattery, is equally unbecoming that character; Antillon accuses the confederates, of *fawning servility*, *extravagant adulation*, and the *meanest debasement*, yet this very man is not entirely exempt from the imputation of flattery—"They know not the man, whom they thus treat," *cui male si palpere recalcitrat undique tutus*[1] was an artful compliment, paid by a courtly poet to the tyrant Augustus. Yes, Antillon, I know the man; I know him to be generous, of a good heart, well disposed, and willing to promote, if left to himself, the happiness and welfare of the Province, but youthful, unsuspicious and diffident of his own judgment in matters legal and political,[2] failings, (if they de-

[1] Hor., "Sat.," ii., 1, 20.

[2] It cannot be supposed that the King can have a thorough knowledge of every department in his kingdom; he appoints judges, to interpret, and to dispense law to his subjects; ministers to plan, and digest schemes of policy, and to conduct the business of the nation; generals, and admirals, to command his armies, and fleets; over all these he has a general superintendency, to remove, and punish such

serve the name) that have caused him to repose too great a confidence in *you ;* from this opinion of the man, from a persuasion of his good intentions, I was induced to apply to *him* the maxim of the British Constitution, "*the King can do no wrong*," which you have so wittily and humorously ridiculed. The Governor is no King, wonderful discovery! who said he was? you comprehend the full force and justice of the application, and you best know the reason of it; in order to elude and defeat its

as from incapacity, corruption or other misdemeanors may be unfit, and unworthy of the trust reposed in them—"The King cannot exercise a judicial office himself, for though justice and judgment flow from him yet he dispenses them by his ministers, and has committed all his judicial power to different courts ; and it is highly necessary for his people's safety he should do so, for as Montesquieu justly observes—There is no liberty if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be legislator ; were it joined to the executive power, the judge might behave with all the violence of *an oppressor*. Here, the Governor, who exercises the executive and a share of the legislative power holds and exercises also one of the most considerable judicial offices—for he is Chancellor, a jurisdiction, which in the course of some years, may bring a considerable share of the property of this country, to his determinations." The Governor is so well satisfied of wanting advice, that in determining causes of intricacy, he always chuses to have the assistance of some gentleman, who from study and a knowledge of the law, may be presumed a good judge, and able to direct him in cases of difficulty and doubt. He has recourse to the advice of his Council in all matters of publick concernment ; it is therefore highly probable he took the advice of some, or of ONE in the Council before he issued the Proclamation. It is well known, that in England the *prime minister* directs and governs all his Majesty's other ministers ; in Charles the II.d's. time the whole care of Government was committed to five persons, distinguished by the name of the *Cabal :* the other members of the Privy Council were seldom called to any deliberations, or if called, only with a view to *save appearances*.

aim, you affect to be witty, and not to take my meaning. You want to shelter yourself under the protection of the Governor, and to draw him, and all the Council, into a justification of measures *peculiarly yours*, by endeavoring to make them responsible for *your counsels*. "There can be no difficulty in finding out his (the King's ministers,) the Governor and Council are answerable in this character; he cannot disavow an act to which his signature is affixed." Have not many Kings of England revoked and cancelled acts to which their signatures were affixed? Have not some Kings too, at the solicitation of their Parliaments, disgraced ministers, who advised these acts, and affixed to them the royal signature?

The Governor is improperly called the King's minister, he is rather his representative, or deputy; he forms a distinct branch, or part of our Legislature; a bill, though passed by both Houses of Assembly, would not be law, if dissented to by him; he has therefore the power, *loco Regis*, of assenting and dissenting to laws; in him is lodged the most amiable, the best of power, the power of mercy; the most dreadful also, the power of death. A minister has no such transcendent privileges,—To help, to instruct, to advise, is his province, and, let me add, that he is accountable for his advice, to the great council of the people; upon this principle the wisdom of our ancestors grounded the maxim, "The King can do no wrong." They supposed, and justly, that the care and administration of government would be committed to ministers, whose abilities, or other qualities had recommended to their sovereign's choice; lest the friendship and protection of their master should encourage them to pursue pernicious measures, and lest they should screen themselves under regal authority, the blame of bad counsels became imputable to them and they alone were made

answerable for the consequences ; if liable to be punished for maladministration, it was thought, they might be more circumspect, diligent, and attentive to their charge ; it would be indecent and irreverential to throw the blame of every grievance on the King, and to be perpetually remonstrating against majesty itself, when the minister only was in fault. The maxim however admits of limitation.

Est modus in rebus, sunt certi denique fines,
Quos ultra, citraque, nequit consistere rectum.[1]

Should a King, deaf to the repeated remonstrances of his people, forgetful of his coronation oath, and unwilling to submit to the legal limitations of his prerogative, endeavor to subvert that constitution in Church and State, which he swore to maintain, resistance would then not only be excusable, but praiseworthy, and deposition, imprisonment, or exile might be the only means left of securing civil liberty and national independence. Thus James the Second, by endeavoring to introduce arbitrary power, and to subvert the established Church, justly deserved to be deposed and banished. The Revolution which followed, or rather brought on James' abdication of the crown, "is justly ranked among the most glorious deeds, that have done honour to the character of Englishmen." In that light, the First Citizen considers it ; and he believes the independent Whigs entertain the same opinion of that event, at least, nothing appears to the contrary, save the malevolent insinuation of Antillon.

It is high time to return to the Proclamation ; your digressions, Antillon, which have occasioned mine, shall not make me lose sight of the main object. "It is not to be expected that any man will bear reproaches without

[1] Hor., S., i, 1, 106–107.

reply, or that he who wanders from the question, will not be followed in his wanderings, and hunted through his labyrinths." We have seen the Proclamation was apprehended some time before its publication, and guarded against by a positive declaration of the Lower House—"*The people of this province will ever oppose the usurpation of such a right.*" Nevertheless *our minister*, regardless of this intimation, advised the Proclamation. It came out soon afterwards, cloathed with the specious pretence of preventing extortion in officers. I shall soon examine the solidity of this softening palliative. In a subsequent session, it was resolved unanimously by the Lower House, "to be *illegal, arbitrary, unconstitutional and oppressive.*" It was resolved also, "*That the advisers*[1] *of the said Proclamation are enemies to the peace, welfare and happiness of this Province, and to the laws and constitution thereof.*" I shall now give a short extract from Petyt's *Jus Parliamentarium*, page 327, and leave the reader to make the application.—"In a list of grievances presented by the Commons to James the First, are Proclamations, of which complaining bitterly, among other things they say, nevertheless, it is apparent, that Proclamations have been of late years much more frequent than heretofore, and that they are extended, not only to the liberty, but also to the goods, inheritances,

[1] It is plain from the above resolve of the Delegates, that they considered the Governor, not as my lord's minister, but as his deputy, or lieutenant, acting by the advice of others, nor pursuing his own immediate measure, and sentiments. It is no imputation on the Governor's understanding to have been guided by a counsellor, from whose experience, and knowledge, he might have expected the best advice, when he did not suspect, or did not discover the interested motive, from which it proceeded; the minister has the art of covering his *real* views with *fair* pretences.

"And seems a saint, when most he plays the devil."

and livelihood of men ; some of them, tending to alter some *points* of *the law*, and make *them new* ; others some made shortly after a session of Parliament for matter directly rejected in the same session," and some vouching former proclamations, to countenance and warrant the latter. The Proclamation is modestly called by Antillon, "*a restriction of the officers*," at another time, "*preventive of extortion*," though in fact, it ought rather to be considered as a direction to the officers, what to demand, and to the people, what to pay, than a *restriction of the officers*. I appeal to the common sense and consciences of my countrymen ; do ye think, that the avowed motives of the Proclamation, was the true and real one ? If no such Proclamation had issued, would ye have suffered yourselves to be oppressed, and plundered by the officers ? Would ye have submitted to their exorbitant demands, when instructed by a vote of your Representatives, " That in all cases when no fees are established by law, for services done by officers, the power of ascertaining the quantum of the reward for such services is constitutionally in a jury upon the action of the party " ? To set this matter in a clear point of view, and to expose the hollow and deceitful show of a pretended clemency, and tenderness for the people, it may not be improper to introduce a short dialogue between an officer and citizen.

Officer : How wretched and distressed would have been the situation of this Province, if the well-timed and merciful Proclamation had not issued.

Cit. : How so ?

Officer : The reason is obvious : had it not issued, we should have been let loose on our countrymen to live on free quarter, for every *little* piece of service we should have exacted a *genteel* reward, in a short time your pock-

ets would have been pretty well drained, and to mend the matter, we might have pillaged and plundered, without being liable to be sued for extortion; for we could not be guilty of extortion merely in taking *money* or other valuable thing for our services, unless we were to take more than is due; it is obvious to common sense that there must be some established measure or there can be no excess. That *ascertained*, there must be a *positive*, or there can be no *comparative;* let the result then be considered, if something be undeniably due, when a service is performed, and no *certain* rule or measure to determine the rate, should an officer take *as much as he can exact*, he would not commit *extortion* according to the legal acceptation of the term *extortion.*

Cit.: This may be good law for aught I know, but if I could not sue you for extortion, I should still have a remedy.

Officer: What, pray?

Cit.: I would only pay you what I thought reasonable.

Officer: But suppose I should not think the sum tendered sufficient, and refuse to receive it?

Cit.: Why then you might either go without any reward for your service or you might sue me, to recover, what in your estimation would be adequate thereto, and thus leave the question of the recompense to be settled by a jury.

Officer: This expedient did not occur to me; your condition, I own, would not have been quite so deplorable as I imagined.

The plain answer of this citizen will be understood by many who will not comprehend the more refined reasoning of the officer upon extortion; and I fancy the citizen's resolution in a like case would be adopted by most peo-

ple. Antillon has admitted that "If the Proclamation had not the authority to fix the rates according to which the officers *might* receive and *beyond which* they could not *lawfully receive*, it was not preventive of extortion, but whether it had or not such authority depended on its legality, *determinable in the ordinary judicatories.*" I should be glad to know whether its legality be determinable by the judges, or by a jury; if determinable by a jury, the liberty and property of the people will be exposed to less danger; were we sure of always having judges as honest and upright as the present, the question, though, of the most momentous concern, might perhaps be safely left to their decision; but our judges are removable at pleasure; some of them might be interested in the cause, and if suffered to establish their *own* fees would become both judges and party;—a Governor, we have seen, decreeing as Chancellor fees to be paid upon the authority of his *own* Proclamation, would fall under that predicament. Let us admit, by way of argument, that the decision of this question (the legality of the Proclamation) belongs properly to the judges; suppose they should determine the Proclamation to be legal; what consequence would follow? The most fatal and pernicious that could possibly happen to this Province: the right of the Lower House to settle fees, with the concurrence of the other branches of the Legislature, a right which has been claimed and exercised for many years past, to the great benefit of the people, would be rendered useless and nugatory. The old table of fees abounding with exorbitances and abuses, would ever remain unalterable; government would hold it up perpetually, as a sacred palladium, not to be touched, and violated by profane hands.

Reasons still of greater force might be urged against

leaving with the judges the decision of this important question, whether the Supreme Magistrate shall have the power to tax a free people without the consent of their representatives, nay, against their consent and express declaration ; I shall only adduce one argument, to avoid prolixity. The Governor, it is said, with the advice of his Lordship's Council of State, issued the Proclamation : three of our provincial judges are of that Council ; they therefore advised a measure as proper and consequently as legal, the legality of which, if called in question, they were afterwards to determine. Is not this in some degree, prejudging the question ? It will perhaps be denied (for what will not some men affect to deny ?) That to settle the fees of officers by Proclamation, is not to tax the people ; I humbly conceive that fees settled by the Governor's Proclamation, should it be determined to have the force of law, are flowing from an arbitrary and discretionary power in the Supreme Magistrate,—for this assertion, I have the authority of my Lord Coke express in point. That great lawyer in his exposition of the statute *de tallagio non concedendo* makes this comment on the word tallagium : "Tallagium is a general word, and doth include all subsidies, taxes, tenths, fifteenths, impositions, and other burthens or charge *put* or *set* upon any man ; that within this act are all new officers erected with new fees for that is a tallage put upon the subject, which cannot be done without common consent by Act of Parliament." The inspection law being expired, which established the rates of officers fees, adopted by the Governor's Proclamation, I apprehend the people (supposing the Proclamation had not issued) would not be obliged to pay fees to officers according to those rates ; this proposition, I take, to be self-evident ; now if the Proclamation can revise those rates, and the payment of

fees agreeable thereto, can be enforced by a decree of the Chancellor, or by judgment of the provincial court, it will most clearly follow, that the fees are *new*, because enforced under an authority *entirely new*, and *distinct* from the act, by which those rates were originally fixed. Perhaps my Lord Coke's position will be contradicted, and it will be asserted, that fees payable to officers are not taxes; but on what principle such an assertion can be founded, I am at a loss to determine; they bear all the marks and characters of a tax; they are universal, unavoidable, and recoverable, if imposed by a *legal* authority, as all other debts; universal and unavoidable, "for applications to the publick offices are not of *choice* but of necessity, redress cannot be had for the smallest or most atrocious injuries but in the courts of justice, and as surely as that necessity does exist, and a binding force in the Proclamation be admitted, so certainly must the fees thereby established, be paid in order to obtain redress." There is not a single person in the community, who at one time or another, may not be forced into a court of justice, to recover a debt, to protect his property from rapacity, or to wrest it out of hands which may have seized on it with violence, or to procure a reparation of personal insults.

Why was the inspection law made temporary? With a view no doubt, that on an alteration of circumstances, the delegates of the people, at the expiration of the act, with the consent of the Governor, and Upper House, might alter and amend the table of fees, or frame a new table. That the circumstances of the Province are much changed since the enacting of that law in 1747, the Proclamation itself evinces, by allowing planters to pay the fees of officers in money, in lieu of tobacco, which alternative has considerably lessened the fees, and is a proof,

if any were wanting, that they have been much too great. It was insisted on by the Lower House, that a greater reduction of fees was still necessary; by the Upper, that the fees were already sufficiently diminished, and that they would not suffer any further reduction of fees, than that, which must necessarily follow from the election given to all persons, to discharge the fees in tobacco, or money as may best suit them. One would imagine that a compromise, and a mutual departure from some points respectively contended for, would have been the most eligible way of ending the dispute; if a compromise was not to be effected, the matter had best been left undecided: time and necessity would have softened dissention, and have reconciled jarring opinions, and clashing interests; and then a regulation by law, of officers fees, would have followed of course. What was done? The authority of the Supreme Magistrate interposed, and took the decision of this important question, from the other branches of the Legislature to itself; in a land of freedom this arbitrary exertion of prerogative will not, must not, be endured.

From what has been said, I think it will appear that the idea of a tax is not improperly annexed to a regulation of fees by Proclamation, "but if the idea be proper, then fees can be settled in no case except by the Legislature, because it requires such authority to lay a tax; but the House of Lords, the House of Commons, the court of law and equity in Westminster Hall, the Upper and Lower Houses of Assembly have each of them settled fees—" they have so: the House of Lords, and the House of Commons have that right derived from long usage, and from the law of Parliament, which is *lex terræ*, or part at least of the law of the land. Our Upper and Lower Houses of Assembly claim most of the

privileges, appertaining to the two Houses of Parliament, being vested with powers nearly similar, and analogous [1] to those inherent in the Lords and Commons. "The courts of law and equity in Westminster Hall, have likewise settled fees"; by what authority? Antillon has

[1] I say nearly similar; a perfect similitude cannot be expected; our Upper House falls vastly short of the House of Lords in dignity, and independence; our Lower House approaches much nearer in its constitution to the House of Commons, than our Upper House to the House of Lords; the observation of a sensible writer on the Assembly of Jamaica may be applied to ours—"The legislature of this province wants in its two first branches (from the dependent condition of the Governor and Council) a good deal of that freedom which is necessary to the legislature of a free country, and on this account, our constitution is defective in point of legislature, those two branches not preserving by any means, so near a resemblance to the parts of the *British* legislature, which they stand for here, as the Assembly does; this is a defect in our constitution, which cannot from the nature of things be entirely remedied, for we have not any class of men distinguished from the people by inherent honours; theAssembly, or Lower House has an exact resemblance of that part of the *British* constitution, which it stands for here, it is indeed an epitome of the House of Commons; called by the same authority, deriving its powers from the same source, instituted for the same ends, and governed by the same forms; it will be difficult, I think to find a reason, why it should not have the same powers, the same superiority over the courts of justice, and the same rank in the system of our little community, as the House of Commons in that of Great Britain. I know of no power exercised by the House of Commons for redressing grievances or bringing publick offenders to justice, which the Assembly is incapable of—I know of none, which it has not exercised at times except that of *impeachment*, and this has been forborn, not from any *incapacity* in that body, but from a defect in the power of the Council; an impeachment by the House of Commons in England, must be heard in the House of Lords, it being below the dignity of the Commons to appear as prosecutors, at the bar of any inferior court." The powers therefore of the House of Commons, and of our Lower House being so nearly similar, their respective privileges must be nearly the same. —See the privileges of the Island of Jamaica vindicated.

not been full and express on this point. Have the judges settled the fees of officers in their respective courts solely by the King's authority, or was that authority originally given by act of Parliament to his Majesty, and by him delegated to his judges? Admitting even, that the chancellor and judges of Westminster Hall have settled fees, by virtue of the King's commission, without the sanction of a statute, yet the precedent by no means applies to the present case. The judges in England have not settled their *own* fees; if the Proclamation should have the force of law, the Commissary-General, the Secretary, the judges of the land office, who are all members of the Council, and who advised the Proclamation, that is, who concurred with the *minister's* advice, may with propriety be said to have established their *own* fees. The Governor as Chancellor decreeing his fees to be paid "according to the *very settlement of the Proclamation*" would undoubtedly, ascertain, and settle his own fees; would he not then be judge in his own cause? Is not this contrary to natural equity? Where a statute is against common right and reason, the common law shall control it and adjudge it to be void; a statute so contrary to natural equity, as to *make a man judge in his own cause*, is likewise void, for *jura naturæ sunt immutabilia.*

The quotation from Hawkins given by Antillon, militates most strongly against him; the chief danger of oppression, says the serjeant, is from officers being left at liberty to *set their own rates* on their labour, and make their *own demands.* Answer this question, Antillon! If you remain silent, you admit the imputation; if you deny it, you will be forced to disavow the advice you gave. The Proclamation is sometimes represented by Antillon as a very harmless sort of a thing, "It has no force, no efficacy but what it receives from its legality

determinable in the ordinary judicatories." He has not indeed told us expressly, who are to determine its legality; if the judges of the provincial court are to decide the question, and they should determine the Proclamation to be legal, in that case, I suppose, an appeal would lie from their judgment, to the court of appeals. Would not an appeal to such a court, in such a cause, be the most farcical and ridiculous mummery ever thought of? All that has been said against the Proclamation, applies with equal, or greater force against the instrument under the great seal for ascertaining the fees of the land office. Antillon having noticed "That in consequence of a commission issued by the Crown, upon the address of the British House of Commons, the Lord Chancellor by *the authority of his station*, and by and with the advice and assistance of the master of the rolls, ordered, that the officers of the Court of Chancery should not demand [1] or

[1] Antillon infers from this argument, that the Governor has the same power in this Province. In England, the King originally paid all his own officers; nothing therefore could be more consistent with the spirit of the constitution, than that *he* should establish the wages, *who* paid them. It is not so in this country, nor is it at present the case in England: they are now paid out of the pockets of the people: sheriffs, and many other officers have therefore their fees ascertained by Act of Parliament, and in those cases, where the fees given originally by the crown, are now established by custom, the Parliament claims, and has exercised a power of controul over them, as will appear by the following quotations. "The Commons ordered in lists of all the fees taken in the publick offices belonging to the law, which amounted annually to an incredible sum *most of it to officers for doing nothing;* but the enquiry was too perplexed, and too tedious for any effectual stop being put to the evil within the period of one session."—Tindal's Continuation of Rapin's History.

Extract of a report of a Committee of the House of Commons impowered to inquire into the state of the officers fees belonging to the courts in Westminster-hall—April, 1752.

"Among the various claims of those, who now call themselves offi-

take any greater fees for their services, in their respective offices, than according to the rates established," I have thought proper to insert in the note referred to, some particulars relating to a similar measure, for the information of my readers, and to shew, that a regulation

cers of the court of chancery, none appeared more extraordinary to the committee, than the fee of the secretary, and clerk of the briefs, who upon grants to enable persons to beg, and collect alms, claim and frequently receive a fee of forty, fifty, or sixty pounds, and the register taker besides twelve or thirteen pounds for stamping and telling the briefs, which fees, with other great charges upon the collection, devour three parts in four of what is given for the relief of persons reduced to extreme poverty by fire, or other accidents." The committee closing their report with "observing how little able or *willing* many officers were to give any satisfactory account of the fees, they claim, and receive," came to the following resolution.

"*Resolved*, That it is the opinion of this committee that the long disuse of public enquiries into the behaviour of officers, clerks, and ministers of the courts of justice has been the occasion of the increase of unnecessary officers and given encouragement to the taking *illegal fees*.

Resolved, That it is the opinion of this committee that the *interest*, which a great number of *officers* and *clerks* have in the proceedings of the court of chancery has been a principal cause of extending bills, answers, pleadings, examinations and other forms, and *copies of them* to an unneccessary length to the great delay of justice and the oppression of the subject.

Resolved, That it is the opinion of this committee that a table of all the offices, ministers, and clerks, and of their fees in the court of chancery should be fixed, and established by authority, which table should be registered in a book, in the said court, to be at all times inspected *gratis*, and a copy of it signed and attested by the judges of the court, should be returned to each House of Parliament, to remain among the records."

If the Commons had a right to enquire into the abuses committed by the officers of the courts of law, they had, (no doubt) the power of correcting those abuses, and of establishing the fees, had they thought proper, to be paid to the officers of those courts.

of officer's fees fell under the consideration of the House of Commons, and that the same encroaching spirit of office, which has occasioned such altercations, heart burnings, and confusion in this Province, has prevailed also in the parent state. The settlement of fees by order of the Chancellor, under his Majesty's commission, issued, pursuant to an address of the House of Commons, is not, I will own, a tax similar to ship-money. But a regulation of fees by Proclamation, contrary to the express declaration of our House of Burgesses, is very similar thereto.[1]

Exclusive of the above reasons, another very weighty argument, arising from the particular form of our provincial Constitution, may be brought against the usurped power of settling fees by Proclamation, and against the decision of its legality, in our "*ordinary judicatories.*" We know, that the four principal officers in this province, most benefited by the Proclamation, are all members of the Upper House ; I have said it, and I repeat it again, a tenderness, a regard for those gentlemen, a desire to prevent a diminution of their fees, have hitherto prevented a regulation of our staple ; in a matter of this importance, which so nearly concerns the general welfare of the Province, personal considerations and private friendships, shall not prevent me from speaking out my sentiments with freedom ; neither shall antipathy to the man, whom in my conscience I believe to be the chief author of our grievances, tempt me to misrepresent his actions, "or set down aught in malice"—neither a desire to please men in power, nor hatred of those who abuse it, shall force me to deviate from truth. "But the pres-

[1] Because it is a tax upon the people without the consent of their Representatives in Assembly, as has been, I hope, demonstrated to the satisfaction of my readers.

ent Proclamation is not the invention of any daring ministers now in being." Who said he was the inventor? The *minister now in being* has revived it only, in opposition to the unanimous sense of the people, expressed by their representatives, after a knowledge too, of the evils and confusion, which it heretofore brought on the province. Dismayed, trembling, and aghast, though skulking behind the strong rampart of Governor and Council, this Antillon has intrenched himself chin deep in precedents, fortified with transmarine opinions, drawn round about him, and hid from publick view, in due time to be played off, as a masked battery, on the inhabitants of Maryland. I wish these opinions of "*Lawyers in the opposition*" would face the day. I wish the state on which they were given was communicated to the publick; "the opinion respecting the Proclamation is on no point which the minister for the time being aims to establish"—if in favour of the Proclamation, I deny the assertion; the Proclamation is a point which the minister of Maryland aims to establish, in order to establish his own power, and perquisites. Antillon asks "If they (the *confederates*) have any other measures besides the Governor's Proclamation, to arraign as an attempt to set the Supreme Magistrate above the law?" First evince, that the Proclamation is not such an attempt; till then, it is needless to point out others. Without entering into foreign matter, I have already given you an opportunity "of shewing me stripped of disguise, *What I am.*" I have shewn what (*stripped of disguise*) you are. "*Homo natus in perniciem hujus rei publicæ*," a man born to perplex, distress, and afflict this country.

First Citizen.

February 27, 1773.

LETTER III.

"Our Places are disposed of to men, that are the ornaments of their own dignity; to men that have the welfare of the kingdom wholly at heart and who accept of offices only to do the necessary drudgery of the state, and neither to amass estates from their services, nor aggrandize any branches of their family; hence it happens that England can never be infamous for a Sejanus, who rose from the dunghill to grasp all power, and whose working wickedness had generally a double plot, upon his prince and upon the people."—*True Briton*, No. 38.

The Prince who places an unlimited confidence in a bad minister, runs great hazard of having that confidence abused, his government made odious and his people wretched; of the many instances, which might be brought to confirm the observation, none more instructive, can perhaps be selected, from the annals of mankind, than the story of Sejanus. We need not, however, have recourse to the history of other nations and of other ages, to prove, that the unbounded influence of a wicked minister, is sure to lead his master into many difficulties, and to involve the people in much distress; the present situation of this province is a proof of both.

It is not my intention to compare Antillon with Sejanus; yet whoever has the curiosity to read the character of the latter drawn by the masterly pen of Tacitus, and

is well acquainted with the former will discover some striking liknesses between the two. The *animus sui obtegens, in alios criminator.*[1] *The juxta adulatio et superbia* are equally applicable to both.

Does it yet remain a secret who this wicked minister, this Antillon is? Are ye my countrymen "*puzzled to find him out*"? Surely not; his practises have occasioned too much mischief, to suffer him to lurk concealed, notwithstanding all his mean and dirty arts, to gain popularity, by which he rose to his present greatness, and the indefatigable industry of his *tools* in echoing his praises, and celebrating the *rectitude* of his measures.

In vindication of his conduct, Antillon has not endeavoured to convince the minds of his readers by the force of reason, but "*in the favourite method of illiberal calumny, virulent abuse and shameless asseveration to affect their passions*" has attempted to render his antagonist ridiculous, contemptible and odious; he has descended to the lowest jests on the person of the Citizen, has expressed the utmost contempt of his understanding, and a strong suspicion of his *political and religious principles.* What connection, Antillon, have the latter with the Proclamation? Attempts to rouse popular prejudices, and to turn the laugh against an adversary, discover the weakness of a cause, or the inabilities of the advocate, who employs ridicule, instead of argument. "*The Citizen's patriotism is entirely feigned*"; his reasons must not

[1] Tac., A., 4, 1. (*Animus audax, sui obtegens, in alios criminator.*) "A mind dark and unsearchable, prone to blacken others, alike fawning and imperious."

If the Latin word *adulatio*, implies that Sejanus was fond of flattery and inclined to flatter, the sentiment is still more apposite to *our wicked minister*, who is known to swallow greedily the fulsome and nauseous praises of his admirers, and to bear a great deal of *daubing*.

be considered, or listened to, because his *religious principles* are not to be trusted. Yet if we are to credit Antillon, the Citizen is so little attached to these principles, "That he is *most devoutly wishing for the event*," which is to free him from their shackles. What my speculative notions of religion may be, this is neither the place nor time to declare; my political principles ought only to be questioned on the present occasion; surely they are constitutional, and have met, I hope, with the approbation of my countrymen; if so Antillon's aspersions will give me no uneasiness. He asks, who is this Citizen? A man, Antillon, of an independent fortune, one deeply interested in the prosperity of his country: a friend to liberty, a settled enemy to lawless prerogative. I am accused of folly, and falsehood, of garbling moral and legal maxims, of a narrow, sordid and personal enmity; of the first and second accusation, I leave the publick judge, observing only, that my want of veracity has not been proved in a single instance. What moral, what legal maxims have I garbled? Point them out, Antillon: You assert that my censures of your conduct flow from a narrow, sordid and personal enmity; that I dislike your vices is most true; that my enmity is rancorous and sordid I deny. You have made the charge, it is incumbent on you to prove it; should you fail in your proofs, admit you must, on your own principles, that you have exhibited the strongest tokens of a base mind: but what is evident to all, can receive no additional confirmation from your admission. Take this as an answer, the only one I shall give, to all your obloquy and abuse—That *vituperari ab improbo summa est laus*. The bad man's censures are the highest commendations.

If it be irksome to be engaged against a writer of a "weak head," and *corrupt heart*, the task becomes infi-

nitely more disgusting, when we have to encounter not only the latter vice, but likewise the wilful misrepresentations of craft, and falsehoods dictated by "*shameless impudence.*" It will be shown in the course of this paper that Antillon is guilty of both charges.

The assessment of ship-money, the Citizen has said, was a more open, the Proclamation a more disguised, though not less dangerous attack on liberty; it has, I hope, been proved already, that fees are taxes, and that the settlement of them by Proclamation is arbitrary and illegal: Antillon has not refuted the arguments adduced to prove both propositions; other reasons in support thereof shall be brought hereafter; at present let us consider whether the Proclamation be not a *disguised and dangerous attack on liberty.* If we attend to the time, circumstances, and *real* motive of issuing the Proclamation, they will, I think, evince beyond all doubt, the truth of the assertion. The Proclamation came out a few days after the prorogation of the Assembly, under the colour of preventing extortion, but in reality to ascertain what fees should be taken from the people by the officers, and after a disagreement between the two Houses about a regulation of fees by law. It would have been too insolent to inform the people in plain terms; your representatives would not come into our proposals, the Governor was therefore advised to issue the Proclamation for the settlement of fees, adopting the very rates of the late regulation objected to by your delegates, as unjust and oppressive in several instances; their obstinate and unreasonable refusal to comply with our *moderate* demands, constrained us to recur to that expedient. It would, I say, have been too daring, to have talked openly in this manner, and too silly, to have avowed, that, to cover the dangerous tendency of the

Proclamation, it was cloaked with the specious, and pretended necessity of protecting the people from the rapacity of officers. This affected tenderness for the people, considering the character of the minister, who made a parade of it, and has since assigned it as the best excuse of an unconstitutional measure, was sufficient to awaken suspicion and fears. Our constitution is founded on jealousy, and suspicion; its true spirit, and full vigor cannot be preserved without the most watchful care, and strictest vigilance of the representatives over the conduct of administration. This doctrine is not mine, it has been advanced and demonstrated by the best constitutional writers; the present measures call for our closest attention to it; the latest designs of our crafty minister will be best detected by comparing them with the open and avowed declarations of government in 1739 on a contest exactly similar to the present. The pursuits of government in the enlargement of its powers, and its encroachments on liberty are steady, patient, uniform, and gradual; if checked by a well-concerted opposition at one time, and laid aside, they will be again renewed by some succeeding minister, at a more favorable juncture.

Extract from the rules and proceedings of the Assembly, 1739:

"The conferrees of the Upper House are commanded to acquaint the conferrees of the Lower House, that they conceive the Proprietary's authority to settle fees, *where there is no positive law* for that purpose, to be indisputable, and that they apprehend the exercise of such an authority to be agreeable to the *several instructions* from the throne to the respective governments, and therefore that the Upper House cannot but think a *perpetual law* in this case, reasonable and necessary, &c."

Compare, my countrymen, the Proclamation issued in 1739 with the present; compare the language of the conferrees of the Upper House in 1739, with Antillon's arguments and vindication of his favourite scheme; in substance they are the same. Antillon's account of ship money, I have admitted in the main to be true, though not entirely impartial; this sentence conveys no insinuation, but what is plain, and easily justified. A writer may give a relation of facts generally true, yet by suppressing some circumstances, may either exaggerate, or diminish the guilt of them, and by so doing, greatly alter their character and complexion. The justice of the remark will hardly be denied, and the application of it to the present case will evince its utility. Antillon has vented part of his spleen on Mr. Hume; the censured passage is taken from that author, acknowledged by a sensible writer[1] and thorough Whig, to be an instructing and entertaining historian. To exculpate the *notorious apologist*, and myself, it is necessary to observe that the words "levied with *justice and equality*" (not *equity*, as cited by Antillon) mean, the tax was equally divided among, or assessed upon the subject without favor and affection to particular persons; that the imposition, though applied to a good and public use, was contrary to law, the historian has acknowledged in the most forcible and express words.

Has the Citizen anywhere insinuated, that the assessment of ship money was legal? Has he not expressly declared, that he does not mean to excuse that assessment? That the conduct of Charles will admit of no *good* apology? Yet that there were some appearances in his favor, the passages already quoted, candid men, I

[1] Daines Barrington. "Observations on the Statutes, chiefly the more ancient."

think, will admit, if not as a proof to convince, at least as an inducement to incline them to that opinion ; mine, I confess, it is, and I make the acknowledgment, without fear of incurring the odious imputation of abetting arbitrary measures, or of being a friend to the Stuarts.

What means the insinuation, Antillon, conveyed in this sentence, "*The appellation tyrant has I suspect rubbed the sore.*" Your endeavours to defame, excite only pity and contempt ; your heaviest accusations, thank God, have no better foundation than your own suspicions. But to return—I again assert, that notwithstanding all the acts ascertaining the subject's rights, cited in your last admirable, and polite performance, that the boundaries between liberty and prerogative were far from being ascertained in Charles's reign with that precision, and accuracy, which the subsequent resolutions, and the improvements our constitution in later times have introduced.[1] I must trouble my readers with a few more quotations from the obnoxious historian above mentioned, submitting the justice of his observations, and the inference drawn from them to their decision, and better judgment :

"Those lofty ideas of monarchical power *which were very erroneously adopted during that age and to which the ambiguous nature of the English constitution gave so plausible an appearance*, were firmly riveted in Charles." Again, speaking of illegal imprisonment, "But the Kings of England" (says he) "who had not been able to prevent the enacting these laws" (in favor of personal lib-

[1] "The latter years," says Blackstone, "of Henry VIII. were the times of the greatest despotism, that have been known in this island, since the death of William the Norman : the prerogative as it then stood by common law (and much more when extended by Act of Parliament) being too large to be endured in a land of liberty."

erty) "had sufficient authority, when the tide of liberty was spent, to hinder their regular execution, and they deemed it superfluous to attempt the formal repeal of statutes, which they found so many expedients, and pretences to elude."

"The imposition of shipmoney" (the same historian remarks), "is apparently one of the most dangerous invasions of national privileges, not only which Charles was ever guilty of, but which the most arbitrary princes in England, since any liberty had been ascertained to the people, had ever ventured upon." He subjoins in a note, "It must, however, be allowed that Queen Elizabeth ordered the seaports to fit out ships, at their own expence, during the time of the Spanish invasion." Elizabeth treated her Parliaments with haughtiness, and assumed a tone of authority in addressing those Assemblies, which even the tyrant Charles did not exceed:—her father governed with despotic sway. To these opinions, and unsettled notions of the Kingly power, and to the prejudices of that age, candour, perhaps, will partly ascribe the determination of the judges in favour of shipmoney, and not solely to corruption.

The Citizen has said, "*that the Revolution rather brought about, than followed King James's abdication of the crown.*" The assertion is warranted by the fact. James's endeavours to subvert the Establishment of Church and State, and to introduce arbitrary power, occasioned the general insurrection of the nation in vindication of its liberties, and the invasion of the Prince of Orange, soon afterwards crowned King of England. James, dispirited by the just, and general desertion of his subjects, and fearing, or pretending to fear violence from his son-in-law, withdrew from the kingdom; his withdrawing was what properly constituted his abdication

from the Crown: his tyrannical proceedings were the cause indeed of that abdication, and voted together with *his withdrawing*, an abdication of the government; till that event the Revolution was incomplete. Will any man, except Antillon, or one equally prejudiced, infer from the last mentioned quotation, that the Citizen intended to cast any reflection on the Revolution, to represent it as an *unjust* act of violence, or that he does not approve the political principles of those by whom it was principally accomplished?—I shall now consider Antillon's main argument in support of the Proclamation, first reducing it into a syllogism. "Taxes cannot be laid but by the legislative authority; but fees have been laid by the separate branches thereof; therefore fees are not taxes." I deny the major, Mr. Antillon, in the latitude laid down by you, but admit it with this restriction, saving in such cases as are warranted by long, immemorial, and uninterrupted usage. The very instances adduced in your paper are an exception to the general rule. The two Houses of Parliament have separately settled fees, as I said before, by the usage, custom and law of Parliament, which is part of the law of the land.

"*The judges in Westminster Hall settled fees*," you say, without defining what you mean by a settlement of fees in this instance; your inference, "*therefore a similar power is vested in the governor of this province*," I deny. The inference will not be granted, unless you prove, that the king by his sole authority, contrary to the express declaration of the Commons, has settled the fees of officers belonging to the courts of law, and equity in Westminster Hall, that is, hath laid new fees on the subject, at a time when they were no longer paid out of the royal revenue, but taken out of the pockets of the people. The fees of officers have been established for many years past in this

province by the Legistature, and the act establishing them was made temporary, that on a change of circumstances an alteration of the fees, if expedient should take place; that this was the *sole* motive of making the inspection law temporary, the Citizen has not asserted, nor has Antillon denied it to be *one* of the motives. An inspection of the votes and proceedings of Assembly in 1739 will evince that the principal reason of giving a temporary existence to that act was to alter, and correct the table of fees on the expiration of it.

"May 31, 1739, The conferrees of the Upper House acquaint the conferrees of the Lower House, that the Upper House could agree to no law to establish officers fees, but what should be *perpetual*, and were ordered not to proceed to consider of any fees, till the sense of the Lower House on that point should be made known.

"2nd June, 1739, This House (the lower) having taken into consideration the report of their members appointed conferrees concerning the officers fee bill, and the proposal made by the conferrees of the Upper House, of making that bill *a perpetual act, do unanimously agree, that it would be of the most dangerous and destructive consequence to the people of this province to make such act perpetual.*"

Judge now, reader, what was the principal intention of the delegates in making the inspection law temporary; but if fees may be lawfully settled by proclamation, "*when there happens to be no prior provision, or establishment of them by law,*" then may the fees originally settled by a temporary act, be upheld by prerogative, and made perpetual, and the province be left exposed to the same dangerous, and destructive consequences, which were apprehended from a perpetuity of the law.

Antillon asserts, "That the Citizen has been constrained to admit that the judges in England have settled fees."

This assertion I must take the liberty of contradicting; if the reader will be at the trouble of turning to the Citizen's last paper, he will there see, that the Citizen after quoting Antillon's words, *The courts of law and equity in Westminster-hall have likewise settled fees,*" asks by what authority? "Antillon," says he, "has not been full and express on this point." "Admitting even" (continues the Citizen) "that the chancellor and judges have settled fees, by virtue of the King's commission, at the request of the House of Commons, without the sanction of a statute, yet the precedent by no means applies to the present case." Is this being constrained to admit that the judges in England have settled fees? Once for all, Antillon, I must inform you, that I shall never admit your assertions, barely on the strength of your *ipse dixits* unsupported by other proof; I perceive your drift but I know my man, and will not suffer myself to be entangled in his snares.

Vane ligus, frustraque animis elate superbis,
Nequiquam patrias temptasti lubricus artis.[1]

Proud Antillon,
"On others practise thy deceiving arts;
Thin stratagems, and tricks of little hearts
Are lost on me.—"

"*The judges in Westminster-hall have settled fees.*" A full enquiry into this matter, I am inclined to believe, would expose Antillon's disingenuity, and show how inconclusive his inference is. "*Therefore the Governor may settle fees,*" that is, *impose fees* on the inhabitants of this province. It has been already observed, that the King originally paid all his officers, and that nothing can be more consistent with the spirit of our constitution,

[1] Virg., "Æn.," xi., 715–716.

than that he, who pays salaries, should fix them. "Fees are certain perquisites allowed to officers, who have to do with the administration of justice, as a recompense for their labor, and trouble, and these are either ascertained by Acts of Parliament or established by *ancient usage*, which gives them *an equal sanction with an Act of Parliament.*[1] Coke on his comment on Littleton, sect. 701, observes, that it is provided by the statute of Westminster, 1st, that no sheriff or any other minister of the King, shall take any reward for doing his office, but that which the King alloweth. That the subsequent statutes having permitted fees to be taken in some instances, under color thereof, abuses had been committed by officers; but that they cannot take fees, but such as are given by Act of Parliament. "But yet such reasonable fees as have been allowed by the courts of justice of *ancient time* to inferior ministers, and attendants of courts for their *labour and attendance*, if they be asked and taken of the subject is no extortion." It does not appear to me, that the judges have ever imposed *new fees* by their sole authority. Hawkins says, "the chief danger of oppression is from officers[2] being left at liberty to set their *own* rates, and make their *own* demands," therefore the *law* has authorized the judges to settle them."

What law, common, or statute, has either empowered the judges to impose *new fees?* Antillon asks, how are *these settlements*, and the admission of *their legality* (take

[1] Bacon's Abridg., 2d. vol.

[2] Antillon has acknowledged that two counsellors were interested in the settlement of fees; he is, perhaps one of them: he has also acknowledged, that he advised the Proclamation as expedient and legal: he has held up the Proclamation as the standard, by which the courts of justice are to be guided in awarding costs: if all this be true, has he not endeavoured to set his own rates, and make his own demands?

notice, reader, I have not admitted *their legality*) to be reconciled with the position, *that fees are taxes?* Before you can reasonably expect an answer to this question, it is incumbent on you, Antillon, first to fix a certain, and determined meaning to a *settlement of fees by the judges*, and to explain in what manner, upon what occasions, and at what time, or times, the judges have *settled* fees, then shall we have some fixed and certain notion of those settlements. After you have taken all this trouble, the information may be pleasing (man is naturally curious, and fond of having mysteries unfolded) but the inference, "*Therefore, the governor may legally impose fees by his sole authority*," will be rejected for this plain and obvious reason. Fees in this province have been generally settled by the legislature; so far back as 1638, we find a law for the limitation of officers fees; in 1692, the governor's authority to settle fees was expressly denied by the Lower House; it was voted unanimously by that House, "*That it is the undoubted right of the freemen of this province not to have* ANY FEES *imposed upon them but by the consent of the freemen in a General Assembly.*" The Speaker of that House attended by several members went up to the Council Chamber, and informed the governor and members thereof, "That no *officers fees* ought to be imposed upon them, but by the consent of the representatives in Assembly, and that this liberty was established and ascertained by several acts of Parliament, the authority of which is so great, as to receive no answer, but by repeal of the said statutes, and produced the same with several other authorities; to which the governor's answer was, that his instructions from his Majesty were to *lessen* and *moderate* the exhorbitancy of them, and not to *settle* them; to which Mr. Speaker replied that they were thankful to his Majesty for the same, but withal

desired that *no fees* might be *lessened* or *advanced* but by the consent of the Assembly, to which the Governor agreed." An act was passed that very session for regulating officers fees.

Here was a formal relinquishment of the claim to settle fees by prerogative ; from that day to this the claim has been constantly opposed by the representatives of the people, and in consequence of that opposition laws have been made from time to time for the limitation of officers fees ; these laws ought to be considered as so many strong and express denials of the Proprietary's authority to settle fees, and as so many acknowledgments on the part of government of its illegality. Precedents, I know, have been brought to show that the power hath been exercised; so have many other unconstitutional powers ; the exercise doth not prove the right ; it proves nothing more than a deviation from the principles of the Constitution in those instances in which the power hath been illegally exercised. Precedents drawn from the mere exercise of a disputed authority, so far from justifying the repeated exercise of that authority, suggest the strongest motive for resisting a similar attempt, since the former temporary and constrained acquiescence of the people under the exertion of a contested prerogative is now urged as a proof of its legality. As precedents have been mentioned, their proper use, and misapplication, cannot be better displayed than by a quotation from the author of the "Considerations." After perusing the passage with attention, the reader, I think, will be disposed to treat Antillon's argument drawn from the precedent of New York, with great contempt, perhaps with some indignation should he have reason to believe that the "Considerations" were wrote by this very Antillon : "When instances are urged as an authoritative

reason for adopting a new" (or an illegal measure, the reason is applicable to either) "they are proved to be more important from this use of them" (the countenance and support they are made to give to arbitrary proceedings) "and ought therefore to be reviewed with accuracy and canvassed with strictness; what is proposed ought to be incorporated with what hath been done, and the result of both stated and considered as a substantive, original question, and if the measure proposed is incompatible with the constitutional rights of the subject, it is so far from being a rational argument that consistency requires an adoption of the proposed measure, that, on the contrary, it suggests the strongest motive for abolishing the precedent; when therefore an instance of *deviation* from the Constitution is pressed as a reason for the establishment of a measure striking at the root of all liberty: though the argument is inconclusive, it ought to be useful. Wherefore if a sufficient answer were not given to the argument drawn from precedents, by shewing that none of the instances adduced are practicable, I should have very little difficulty in denying the justice of the principle on which it is founded; *what hath been done if wrongful confers no right to repeat it;* to justify oppression and outrage by instances of their commission, is a kind of argument which never can produce conviction, though it may *their* acquiescence whom the terror of greater evils may restrain from resisting[1]; and thus the despotism of the East may be supported, and the natural rights of mankind trampled under foot. The question of right therefore doth not depend upon precedents, but on the principles of the Constitution, and hath been put upon its proper point already discussed," whether

[1] The last two words are omitted as the passage is quoted in the *Maryland Gazette*.

the prerogative may lawfully settle fees in this province. Antillon has laid great stress on the authority of the English judges to settle fees, and from that authority has inferred a similar power in the governor of this province ; he has not indeed explained as it behoved him to do, the origin, nature, and extent of that authority, nor has he shewn in what manner it has been exercised.

No man, I believe, hath a precise and clear idea of a settlement of fees by the judges, from what Antillon has hitherto said on the subject. What does it mean? I ask again, does the authority to settle imply a power to lay *new* fees? The judges, it is allowed cannot alter, or increase the *old* fees ; they have not therefore, I presume, a discretionary power to impose *new ;* if their authority should extend to the imposition of *new fees*, why, in a variety of instances, have fees been ascertained by act of Parliament. Where was the necessity of enacting those statutes, if the judges were empowered *by law* to settle, that is, to impose fees by their own, or delegated authority? Here seem to be two distinct powers in the same state, capable of the same thing ; if co-equal, they may clash, and interfere with each other ; if the one be subordinate to the other, then no doubt, the power of the judges must be subject to the power of Parliament, which is, and must be supreme ; if subject to, it is controlled by Parliament. The Parliament, we all know, is composed of three distinct branches, independent of, yet controlling and controlled by each other ; no law can be enacted, but by the joint consent of those three branches ; now, if in case of disagreement between them about a regulation of fees, the power of the judges may step in, and supply the want of a law, then may the interposition, and authority of Parliament in that case be rendered useless and nugatory. Suppose the leading

members of one branch to be deeply interested in the regulation, that branch will probably endeavour to obtain, if it can, an *exhorbitant provision* for officers: the other may think the provision contended for, too great, they disagree; the fee bill miscarries; the power of the judges is now left at liberty to act, a necessity for its acting is insisted on, and they perhaps establish the *very fees*, which one branch of the Legislature has already condemned as unreasonable and excessive. Suppose the judges should hold their seats during pleasure, suppose them strongly prejudiced in favor of government, might not a bad administration, if this power were submitted to, obtain what establishment it pleased for its officers? Should the judges discover a disinclination to favor the views of government, the removal of the stubborn and the putting in of others more compliant, would overcome that difficulty, and not only secure to government for a time, the desired establishment of fees, but render that establishment perpetual. That a bold and profligate minister will embrace the most bare faced, and shameful means to carry a point, the creation of twelve peers in one day "*on the spur of the occasion*," is a memorable proof. A settlement of fees by Proclamation, I still presume to assert, notwithstanding the subtle efforts of Antillon to prove the contrary, to be an arbitrary and illegal tax, and consequently thus far similar to the ship money assessment: my Lord Coke's authority warrants the assertion and his reasoning will support the principle; all new offices erected with new fees, or *all* offices with *new* fees, are within this act (*de tallagio non concedendo*) that is, they are a *talliage* or *tax* upon the people.

I never asserted, that our offices relating to the administration of justice were not *old*, and *constitutional;* but I have asserted, that we have *no old* and *established fees;*

that fees settled by Proclamation are *new* fees, and that consequently they come within the act, and Coke's exposition of it; and therefore, as *new* fees are taxes, and taxes cannot be laid but by the Legislature, except in the cases heretofore mentioned, fees settled by one, or two branches thereof, are an unconstitutional and illegal tax. What Coke observes, says Antillon, in his comment on the statute (*de tallagio non concedendo*) "may be fully admitted, without any proof," that "every *settlement of fees* is a tax;" therefore, I presume, some settlement of fees is a tax; what settlement of them, Antillon is a tax? If fees settled by Act of Parliament are taxes, why should they cease to be taxes, when settled by the discretionary power of the judges? If when settled by the latter authority they come not within the strict legal definition of a tax, are they on that account less oppressive, or of a less dangerous tendency? According to Antillon, the words "*new fees are not to be annexed to old offices*," mean "*that the old and established fees are not to be augmented or altered but by Act of Parliament;*" yet, in "*the old offices, fees may be settled.*" That is, if I comprehend him right, *new* fees may be established by the judges "*for necessary services, when there happens to be no prior provision made by law for those services.*"

How is this interpretation of my Lord Coke's comment to be reconciled with his position, that fees cannot be imposed but by Act of Parliament, and with the doctrine laid down in 2d Bacon already recited? The *legality* of the Proclamation, Antillon has said, is determinable in the ordinary judicatories; does it follow, therefore, that the measure is *constitutional?* On the same principle the assessment of ship-money would have been constitutional; for the legality of that too was determinable in the ordinary judicatories, and it was actually deter-

mined to be legal by all the judges, four excepted ; if in that decision the Parliament and people had tamely acquiesced, Proclamations at this day would have the force of laws, indeed would supersede all law.

Antillon's next argument in support of the Proclamation is derived from the necessity of ascertaining precisely by the judgment or final decree, the costs of suits, which are sometimes wholly, sometimes partly composed of the lawyers, and officers fees. If fees are taxes, and taxes can be laid by the Legislature only, that *necessity* (admitting it for the sake of argument to exist) will not justify the settlement of fees by Proclamation ; who is to be judge of the necessity ? Is the government ? Then is its power unlimited. Who will pretend to say, that the *necessity is urgent* and *invincible* ? Such a necessity only, can excuse the violation of this fundamental law ; " *The subjects shall not be taxed but by the consent of their repre sentatives in Parliament.*" " If necessity is the sole foundation of the dangerous power " of settling fees by prerogative, when there is no prior establishment of them by law, " it behoves those who advise the exercise of that power, not only to see that the necessity is indeed *invincible*, but that it has not been occasioned by *any fault* of their own ; for if it is not the one, the act is in no way justifiable, and if the other, that very necessity which is the excuse of the act, will be the accusation of those, who occasioned it, and in place of being justifiable in their conduct, they must be chargeable, 1st, with the *blame of the necessity*, and next with the danger of the violation of the law, as the drunken man who commits murder, justly bears the guilt both of inebriation and of bloodshed. "[1] To whom is the blame of the supposed

[1] Quoted from a pamphlet entitled " A Speech against the Suspending and Dispensing Prerogative," supposed to be written by Lord

necessity, now plead as an excuse for acting against law, imputable? Is it not to those, who rather than submit to a regulation by law of their fees, and to an apprehended diminution of income, chose to shelter themselves under the wings of arbitrary prerogative, and to expose their country to all the difficulties, and distress, which the wanton exercise of an unconstitutional power was sure to introduce?

Who, the least acquainted with the arguments in favor of ship-money, and the *dispensing power*, does not perceive this part of Antillon's defence to be a repetition, and revival of those exploded, and justly odious topics tricked off in a new dress to hide their deformity, the better to impose on the unthinking and unwary. Antillon asserts, that the Citizen from some proceedings of the House of Commons, infers a power in the Commons "*alone*" to settle the fees of officers belonging to the courts of law. Want of accuracy in the expression has, I confess, given a color to the charge; but Antillon to justify his construction of the sentence referred to, and to exclude all doubt of the Citizen's meaning, has inserted the word "*alone*." "If the Commons," says the Citizen, "*had a right to enquire into the abuses committed by the officers of the courts, they had, no doubt the power of correcting those abuses, and of establishing the fees in those courts, had they thought proper*"—he should have added (to prevent all cavil)—*with the concurrence of the King and Lords.* This was really the Citizen's meaning,

Mansfield. Mr. Blackstone, speaking of the very measure, which occasioned that speech, observes: "A Proclamation to lay an embargo in time of peace upon all vessels laden with wheat (though in the time of a public scarcity) being contrary to law, the advisers of such a proclamation, and all persons acting under it, found it necessary to be indemnified by a special Act of Parliament, 7 Geo. 3d. C. 7."

though not expressed; his whole argument should be considered, and taken together; he endeavors all along to prove, that fees are taxes, that taxes cannot be laid but by the Legislature, except in the instances already mentioned, which, as I said before, are exceptions to the general rule. The extracts from the report of the committee were adduced to show, what abuses had crept into practice by officers charging illegal fees; what oppressions the encroaching spirit of office had brought upon the subject; and the controlling power of the House of Commons over the officers of the courts of justice. They resolved, that all the fees should be fixed, and established by authority, that they should be registered in a book, and inspected gratis; that the rates being publicly known, officers might not extort more than the usual, ancient, legal and established fees. It does not appear, that the Commons authorised the judges to create *new* fees, or to alter, or increase the old, but insisted, that a table of all the fees should be made out under the inspection of the judges, and to give it a greater sanction, should be signed and attested by them, to prevent, no doubt, the secret and rapacious practices of officers. That fees are taxes, I hope has been proved; but should it be granted, that they are not taxes, because they have been settled in England by other authority, than the legislative (which I do not admit, if by a settlement of fees under the authority of the judges, an imposition of *new* fees may be meant) still I contend, that a settlement of fees in this province by Proclamation is illegal, and unconstitutional, for the reasons already assigned; to which the following may be added. If a table of fees had been framed by the House of Commons, confirmed by Act of Parliament, and all former statutes relating to fees had been repealed, and a tempo-

rary duration given to the new act, that at its expiration, corrections and amendments (if expedient) might be made in the table of fees; if in consequence of a disagreement between the branches of the Legislature about those amendments, the law had expired, and the Commons had resolved, that an attempt to establish the late rates by Proclamation would be illegal, and unconstitutional would any minister of Great Britain advise his sovereign to issue his Proclamation, under color of preventing extortion, but in reality for the very purpose of establishing the contested rates? If a minister should be found daring enough to adopt the measure, a dismission from office might not be his only punishment, although he should endeavour to justify his conduct upon legal principles, in the following manner.

The same authority distinct from the legislative, that has settled may settle the fees, when the proper occasion of exercising it occurs: the proper occasion has now presented itself, we have no law for the establishment of fees; some standard is necessary, and therefore the authority distinct from the legislative, which used to settle fees, must interfere, and settle them again; necessity calls for its exertion, and it ought to be active; recourse, I allow, should not be had to its interposition, but in a case of the utmost urgency.

"*Nec deus intersit nisi dignus vindice nodus.*"[1]

"Nor let a god in person stand displayed,
Unless the *laboring plot* deserve his aid."

Such reasoning would not screen the minister from the resentment of the Commons: they would tell him, that the necessity, "*The tyrant's plea*," was pretended, not real, if real, that it was occasioned by his selfish views,

[1] Hor., "A. P.," pp. 121–122. *(Nec deus intersit nisi dignus vindice nodus inciderit).*

which prevented the passage of a law, for the settlement of fees ; they would perhaps assert, that a power, distinct from the legislative, unless authorized by the latter, had never attempted to impose fees, since they began to be paid by the people ; they might possibly show, that a settlement of fees by the judges, does not imply an authority in them to impose *new* fees, if it should, that the power is unconstitutional, and ought to be restrained ; they might contend that a settlement of fees by the judges, was nothing more than a publication under their hands and seals of such fees, as had been usually, and of ancient time received by the officers of the courts ; that the publication by authority was made, to prevent the rapacious practices of officers ; they would probably refer the minister to my Lord Coke, who says expressly—that, while officers "could take no fee at all for doing their office but of the King, then had they no color to exact anything of the subject, who knew, that they ought to take nothing of them, but when some Acts of Parliament, changing the rule of the common law, gave to the ministers of the King, fees in some particular cases to be taken of the subject, abuses crept in, and the officers and ministers did offend in most cases, but at this day, they can take no more for doing their office, than have been since this act allowed to them *by authority of Parliament.*" (Westminister 1st.)

But let us leave fiction and come to reality ; what will the delegates of the people at their next meeting say to *our* minister, this Antillon, this *enemy to his country*,[1] this

[1] Voted by the Lower House. Antillon seems to make very light of those resolves, a wicked minister is never at a loss to find out motives, to which he may ascribe the censure and condemnation of his conduct, these he will impute either to passion, to the disappointment of a faction, or to rancorous and personal enmity ; however, if

bashaw—who calls a censure of his measures, arrogance, and freedom of speech, presumption ?—They will probably tell him ; *you* advised the Proclamation, with *you* it was concerted in the cabinet, and by *you* brought into Council ; your artifices imposed on the Board, and on the Governor, and drew them into an approbation of a *scheme outwardly specious, and calculated to deceive ;* you have since defended it upon principles incompatible with the freedom, ease, and prosperity of the province. If your endeavours should prove successful, if the Proclamation should be enforced, we shall never have it in our power to correct the many glaring abuses, and excessive rates, of the old table, adopted by the Proclamation, nor to reduce the salaries of officers, which greatly over pay their services, and give an influence to government, usually converted to sinister purposes, and of course repugnant to the general good.

The monies collected from the people, and paid to officers, amount annually to a large sum ; officers are dependent on, and of course attached to government ; power is said to follow property ; the more, therefore, the property of officers is increased, the greater the influence of government will be ; fatal experience proves it already too great. The power of settling fees by Proclamation

the Proclamation is illegal, and of a dangerous tendency the votes alluded to, so far from being justly imputable to any of those causes, ought to be deemed the result and duty of real patriotism. Antillon has compared the votes of a former Lower House against certain religionists, to the late votes against the adviser of an unconstitutional measure. The unprejudiced will discern a wide difference between the two proceedings, but a review of the former would answer no good purpose ; it might perhaps, rekindle extinguished animosities ; of that transaction I shall say no more than—

Meminimus, et ignoscimus,
" We remember and forgive."

is utterly inconsistent with the spirit of a free constitution: if the Proclamation has a legal, binding force, then will it undoubtedly take away a part of the people's property without their consent. "Whatever another may *rightfully* take from me without my consent, I have certainly no property in."[1] if you render property thus insecure, you destroy the very life and soul of liberty. What is this power, or prerogative of settling fees by Proclamation, but the mere exertion of arbitrary will? If the supreme magistrate may lawfully settle fees by his sole authority, at one time, why may he not increase them at some other, according to his good will and pleasure?[2] What boundary, what barrier shall we fix to this discretionary power? Would not the exercise of it, if submitted to, preclude the delegates of the people from interfering in any future settlement of fees, from correcting subsisting abuses, and excesses, or from lowering the salaries of officers, when they become too lucrative? It is imagined, the salaries of the Commissary, and Secretary, from the increase of business, will in process of time, exceed the appointments of the Governor: does not this very circumstance point out the necessity of a reduction? But if the authority to regulate officers' fees, with the concurrence of the other branches of the Legislature, should be wrested from the Lower House, what expectation can we ever have, of seeing this necessary reduction take place?

"That question ought not to be prejudged," says Antillon "is another of the Citizen's objections." Here again he willfully misrepresents the Citizen's meaning. The passage in the Citizen's last paper alluded to by

[1] Molyneux, "Case of Ireland stated."

[2] Fees were actually increased by Proclamation in 1739, on the application of several sheriffs.

Antillon, is this: "The Governor, it is said, with the advice of his Lordship's Council of State, issued the Proclamation: three of our provincial judges are of that Council, they therefore advised a measure, as proper, and consequently as legal, the legality of which, if called in question, they were afterwards to determine: is not this in some degree prejudging the question?" Antillon talks of precedents, and established rules; the Citizen says not a word about them, his meaning is too plain to be mistaken, without design. The Council, it has been said, advised the Proclamation, the judges therefore, who were then in Council, and concurred in the advice, thought it a legal measure; the legality of it may hereafter be questioned; as judges of the provincial court, they may be concerned in the determination of the question. Is there no impropriety in this proceeding? if they should determine the Proclamation to be illegal, will they not condemn their former opinion? When they advised the Proclamation, they no doubt judged it to be, not only "*expedient*" but *legal;* possibly the decision of this controversy may rest ultimately with the members of the Council, who constitute the court of appeals; these gentlemen, it seems, unanimously concurred in advising the Proclamation: "*Is not this to anticipate questions before they come to them through their regular channel; to decide first, and hear afterwards.*" [1]

[1] "Whether any officer has been guilty of extortion, is a question, which neither your nor our declaration ought to prejudicate; but that your declaration held out to the public would have, in no small degree, this effect, can hardly be doubted, *and our part particularly*, such a declaration would be the more improper, the *last legal appeal* in this province being to *us;* it would be to anticipate questions, before they come to us through their regular channel, to decide first, and hear afterwards." *Vide*, Upper House, Message, 20th November, 1770.

Of the twelve counsellors, says Antillon, "Two only were interested."—Suppose a suit to be brought before twelve judges, two of whom are plaintiffs in the cause, and these two should sit in judgment, and deliver their opinions, would not the judgment, if given in favor of the plaintiffs, be void on this principle, *that no man ought to be judge in his own cause*, such proceeding being contrary to reason and natural equity? Two counsellors only, it seems, were interested, that is *immediately* interested? But might not others be swayed by a remote interest? Are the views of thinking men confined to the present hour? Are they not most commonly extended to distant prospects? If one of the *interested counsellors*, from his superior knowledge of the law, and constitution, and from the confidence reposed in his abilities, should have acquired an uncommon ascendant over the Council, may we not rationally conclude, that *his opinion* would have great weight with *those*, who cannot be supposed equally good judges of the law, and constitution? Supposing this *interested counsellor* to be an *honest man*, ought not his opinion to have the greatest weight with mere laymen on a legal and constitutional question? The Proclamation has no relation to the Chancellor, says Antillon. Does not the Chancellor continue to receive fees in his court according to the rates of the old table? Is not the Governor Chancellor, and has not the Proclamation set up the very rates of the old table? How then can it be said, that the Proclamation has no relation to the Chancellor? Should some refractory person refuse to pay the Chancellor's fees, what methods would be taken to enforce the payment of them? The Chancellor, I suppose, would decree his own fees to be paid; would he not therefore be judge in his own cause? Or if he should refuse to do the service, unless the fee were paid, at the

instant of performing it, would not this be a very effectual method of compelling payment?

Antillon's strictures in one of his notes on the citizen's crude notions[1] of British polity fall entirely on another person; they are the notions of Montesquieu and of the writer of a pamphlet entitled, "The Privileges of the Assembly of Jamaica Vindicated, etc.," and quoted as such. Notwithstanding the appeal from the court of Chancery to a superior jurisdiction, the impropriety of having the offices of governor, and chancellor united in the same person, must be *obvious to every thinking man*. "The Proclamation was the act of the Governor, flowing from his persuasion of its utility; he was not to be directed by the suffrage of the Council, he was to judge of the propriety of their advice, upon the reasons they should offer; they were twelve in number," and no doubt each offered his reasons apart; all this may be very true, Antillon, and *you* may still remain the principal adviser, the sole *fabricator* of the Proclamation. Was the Proclamation thought of, at one and the same instant by all the twelve? Who first proposed it? If you did not first propose the measure, did you not privately instigate the gentleman, who did propose it to the Board, to make the motion? I know you of old; you never choose to appear openly the author of mischief, you have always

[1] If the Governor may lawfully issue his proclamation for the establishment of fees, and it should receive a legal, binding force from the decree of the Chancellor, who in this province is Governor, or from the determination of judges appointed by him, and removeable at his pleasure, "*Then may he behave with all the violence of an oppressor.*" The will to ordain, and the power to enforce, will be lodged in the same person. I do not assert that the Governor will act tyrannically; "but the true liberty of the subject" (as Blackstone justly observes) "consists, not so much in the gracious behaviour, as in the limited power of the sovereign."

fathered your "*mischievous tricks*," on some one else—to these questions I would request your answer, and rest the truth of the accusation on your averment: but the averments of a "*cankered*" minister are not more to be relied on than his promises. I have charged, you say, all the members of the Council with being your implied dependents; I deny the charge; I have said they were imposed on by your artifices; is it the first time, that sensible men have been outwitted by a knave? You are now trying to engage them on your side, and to make them parties to *your* cause. To raise their resentment against the Citizen, you endeavour to persuade them that they have been treated as ciphers, dependent tools, idiots, a mere rabble,

"*Nos numerus sumus, et fruges consumere nati.*[1]"

"We are but cyphers, born to eat and *sleep*."

To draw the governor into your quarrel, you assert, that I have contradicted him in the grossest manner; but as usual, you have failed in your proof. "In his proroguing speech he has declared, that he issued his Proclamation solely for the benefit of the people, by nine tenths of whom, he believed it was so understood." That you persuaded him to think the Proclamation was calculated *solely* for the benefit of the people, I easily credit, and that he really thought so, I will as readily admit; your *subdolous* attempts to involve the Governor in *your* guilty counsels, and make him a partner in *your* crimes, discover the wisdom of the maxim, "*The King can do no wrong*," and the propriety, nay the necessity of its application to the supreme magistrate of this province. I shall adopt another maxim, established by the British Parliament, equally wise and just, "*The King's speeches are the minister's speeches.*" The distinction, perhaps, will be ridi-

[1] Hor., "Ep.," i., 2, 27.

culed with false wit, and treated by ignorance as a device of St. Omers. The proroguing speech, though perhaps not penned, yet prompted by you, suggests that nine tenths of the people understood the Proclamation was issued for their benefit; how is the sense of the people to be known, but from the sentiments of their representatives in Assembly? To judge by that criterion, the Proclamation was not understood by nine tenths of the people as issued for their benefit. That the application of the above maxims should give you uneasiness, I am not surprised; they throw guilt of bad measures on the proper person, on you, and you only, the real author of them; the glory and the merit of good are wholly ascribed to you, by your unprincipled creatures; the spirited reply to the petitioners for a bishop was delivered, it is said, in pursuance of your advice; be it so, claim merit wherever you can, I will allow it wherever it is due; but cease to impose on your countrymen, think not to assume all the merit of good counsels, and of bad to cast the blame on others. Hampden has been deservedly celebrated for his spirited opposition to an arbitrary, and illegal tax; a similar conduct would deserve some praise, and were the danger of opposition and the power of the oppressor as great, the merit would be equal. The violent opposition which Mr. Ogle met with proceeded, I thought, in great measure from the cause assigned in my last paper; it certainly occasioned great discontents.

The decree for the payment of fees "*according to the very settlement of the Proclamation,*" was given, as I conceived, in his first administration. A misconception of Antillon's meaning led me into this error; that I would wilfully subject myself to the imputation of a falsehood so easily detected, will scarcely be credited, unless it be believed, that the hardened impudence, and *habitual mendacity* of an

Antillon, become proverbial, had rendered me insensible of shame and regardless of character. "The citizen has said, the Proclamation ought rather to be considered as a direction to the officers, what to demand, and to the people what to pay, than a restriction of officers." Antillon affects to be much puzzled about the meaning of the word *direction*; it is surprising he should, when he holds up the Proclamation as the standard, by which the courts of justice are to be governed in ascertaining costs, as the only remedy against the extortion of officers, by subjecting them to the governor's displeasure, and removal from office, if they should exceed the established rates, or to a prosecution for extortion, should the legality of the Proclamation be established in the ordinary judicatories. It is a common observation confirmed by general experience, that a claim in the colony-governments of an extraordinary power as incidental to, or part of the prerogative, is sure to meet with the encouragement, and support of the ministry in Great Britain. That the Proclamation is a point which the minister of Maryland, (*our Antillon*) wants to establish, is by this time evident to the whole province. Every artifice has been made use of, to conceal the dangerous tendency of that measure, to reconcile the people to it, and to procure their submission. Opinions of eminent counsel in England have been mentioned, the names of the gentlemen are now communicated to the public; the state on which those opinions were given, though called for, the person who drew it, and advised the opinions to be taken, still remain a profound secret. The sacred name of majesty itself, is prostituted to countenance a measure, not justifiable upon legal and constitutional principles, to silence the voice of freedom and of censure, and to screen a guilty minister, from the just resentment

of an injured and insulted country. The whole tenor of Antillon's conduct makes good the old observation, "that where ministers are pinched in matter of proceeding against law, they throw it upon the King," [1] Antillon has represented the Proclamation, as the immediate act of the Governor, "*The Governor was not to be directed, &c.*" Now to give it a still greater sanction, we are told, the Governor's conduct in this very business, has met with the royal approbation. To what purpose was this information thrown out? Was it to intimidate, and to prevent all further writing, and discourse about the Proclamation? Unheard of insolence! The pride and arrogance of this Antillon, has bereft him of his understanding; *quos deus vult perdere prius dementat.*[2] Speaking of the Proclamation the citizen has said, "*In a land of freedom, this arbitrary exertion of prerogative will not, must not be endured.*" Antillon calls these *naughty, words*, and intimates a repetition of them would be dangerous. In a free country, a contrary doctrine is insufferable; the man who dares maintain it, is an enemy to the people, perhaps, the time may not be very distant when this haughty self-conceited, this *tremendous* Antillon will be obliged to lower his tone, and will find perchance, my Lord Coke's saying prove true, "That the minister, who wrestles with the laws of a free country, will be sure to get his neck broke in the struggle." I have asserted that the citizen's first paper was wrote without the advice, suggestion, or assistance of any person; these words, it seems, are not sufficiently comprehensive; what words of a more extensive import can be made use of? I have denied all knowledge of the paper wrote by the "Independent Whigs," till it was published in the

[1] Grey's "Debates."

[2] Boissonade's translation into Latin of a fragment of Euripides.

Maryland Gazette; to this moment the "Independent Whigs" are unknown to me. The communication to some gentlemen in private, of a paper wrote against an obnoxious minister, censuring his public conduct, though the strictures might meet with their approbation, ought not to render them so culpable as to justify the minister in loading them with the foulest, and most virulent abuse. Does the writer even deserve such treatment? I was too well acquainted with the temper, and character of Antillon, not to be prepared against the bitterest invectives, which malice might suggest, and falsehood could propagate; such, I was persuaded, a censure of his measures would draw on his censurer. Conscious of my integrity, confiding in the goodness of my cause, and desirous of counteracting the insidious designs of a *wicked minister*, I took up my pen, determined to despise the calumnies of a man, which I knew, a candid public would impute to his malevolence. The event has confirmed my apprehensions; Antillon has poured out the over flowing of his gall, with such fury against the citizen, that to use the words of Cicero applied to Anthony:

Omnibus est visus vomere suo more non dicere.[1]

He seems according to custum, rather to spew, than to speak.

The extracts from Petyt were to shew, that the Commons had censured proclamations issued to "*establish matters rejected by Parliament in a session immediately preceding;*" That "*Former proclamations had been vouched to countenance and to warrant the latter.*" The Citizen had no intention to deceive the people; no wish, that more might be inferred from his *little scraps*, than what was plainly announced. The proclamations alluded to were contrary to law; and it is conceded, and, I trust, it

[1] Cicero said of Anthony.

has been proved, that the proclamation for settling officers' fees is also contrary to law. Had the Citizen designedly suppressed the titles of the Proclamations recorded in Petyt, would he have mentioned the author's name, and referred his readers to the very page, from which the extracts were taken? Would he not rather have imitated the conduct of Antillon, who speaking in his first paper, of a commission issued by the King to the Chancellor for settling fees, neither mentions the book, from which the quotation is given, nor the time of the transaction. I comprehend fully, Antillon, your threats thrown out against certain religionists; to shew the *greatness of your soul*, and your utter detestation of malice, I shall give the public a translation of your Latin sentence; the sentiment is truly noble, and reflects the highest lustre on its author or adopter; *Eos tamen laedere non exoptemus, qui nos laedere non exoptant*, we would not wish to hurt those who do not wish to hurt us;—in other words, "I cannot wreak my resentment on the Citizen, without involving all of his religion in one common ruin with him; they have not offended me, it is true, but it is better that ninety-nine just should suffer, than one guilty man escape,—a thorough paced politician never sticks at the means of accomplishing his ends; why should I, who have so just a claim to the character?" These, Antillon, are the sentiments and threats, couched under your Latin phrase, which *you even* were ashamed to avow in plain English; how justly may I retort, *Pudet haec opprobria dici et non potuisse revelli, et dici potuisse.* The conclusion of a late excellent pamphlet[1] is admirably suited to the present subject; I shall therefore transcribe it, taking the liberty of making a few alterations,

[1] Intitled, "A Speech against the Suspending and Dispensing Prerogative."

and insertions : "If we see *an arbitrary and tyrannical disposition somewhere*, the call for watchfulness is a loud [allowed ?]" *That there is such a disposition somewhere and where, we all know, the Proclamation, and the arrogance of its supporter, are convincing proofs.* "A tyrannical subject wants but a tyrannically disposed master, to be a minister of arbitrary power ; if such a minister finds not such a master, he will be the tyrant of his prince"—*or prince's representative*—"as much as of his fellow servants, and fellow subjects. I should be sorry to see," *the governor of this province*, "in chains, even if he were content to wear them—to see him unfortunately in chains, from which perhaps, he could with difficulty free himself, till the person who imposed them, runs away ; which every good subject would, in that case, heartily wish might happen ; the sooner, the better for all."

First Citizen.

LETTER IV.

"*Though* our Kings can do no wrong, *and though they cannot be called to account by any form* our constitution *prescribes, their* ministers *may. They are answerable for the* administration of the government, each *for his* particular part, and *the* prime *or* sole minister, *when, there happens to be one for the* whole: he *is the more so, and the more justly, if he hath affected to render himself so, by usurping on his* fellows, by wriggling, intriguing, whispering, *and* bargaining *himself into this dangerous post, to which he was not called by the* general suffrage, *nor perhaps by the deliberate choice of his* master *himself*."—*Dedication to the Dissertation upon Parties.*

The noble author of the Dissertation upon Parties begins his fourth letter with the following sentiment, taken from Cicero's treatise on the nature of the gods. Balbus, when he is about to prove the existence of a Supreme Being, makes this observation, *Opinionum commenta delet dies, natura autem judicia confirmat*:[1] "Groundless opinions are destroyed, but rational judgments, or the judgments of nature, are confirmed by time." The observations may be applied to a variety of instances, in which the sophistry and ingenuity of man have been employed to confound common sense, and to puzzle the

[1] Cic., "De N. D.," ii, 2, 5.

understanding, in order to establish opinions suited to the views of interest, or of power.

An examination of Antillon's arguments and answers to mine will show how forcibly the judicious remark of Balbus applies to the legal subtleties and metaphysical reasonings of my adversary. I shall take his arguments and his answers nearly in the order they occur in his last paper. The revival of the Governor's authority to regulate the fees of officers, on the expiration of the inspection law, is admitted, provided that authority had a legal existence; but the legality of the authority is denied, for whether it be legal or not, is the very matter in debate. "The offices being old and constitutional, and supported by incidental fees, the right to receive such fees is old and constitutional," and therefore my adversary would infer, that the fees settled by Proclamation are old and constitutional.

This inference does not follow from the premises, notwithstanding the crafty insertion of the word *such*. The offices being old, the right to receive fees may be old; but the question recurs, what fees? of whom? where resides the authority of fixing the rates? for fixed they must be by some authority. That they may be fixed by the Legislature is admitted on all sides; should the different branches of the Legislature disagree about the settlement, what authority must then interpose, and settle the rates hitherto unascertained? Antillon contends that in such case, the supreme magistrate, or the judges acting under an authority delegated from him, may settle them. If this doctrine be constitutional, what security have we against the imposition of excessive fees? Does it not give a discretionary power to the Governor of making what provision he may think proper for his officers, and of rendering them independent of the people?

When a service is performed, the performer is clearly entitled to some recompence, but whether he is to receive that recompence from the person served or from another, may be a matter of doubt, the quantum of the recompence may not be ascertained, either by contract, by usage, or by law, and then, in case of a dispute, must be settled by the verdict of a jury.

If the authority to regulate the fees of officers by Proclamation be illegal, the Proclamation can prevent the extortion of officers only by operating on their fears of the Governor's displeasure, and of a removal from office; "But if the Proclamation had not issued prohibiting the officers from taking *other* or greater fees than allowed by the late inspection act, then would the officers have had it in their power to have demanded *any fees.*" Their rapacity, perhaps, might have prompted them to demand most excessive fees; but under what obligation were the people to comply with their exorbitant demands? Suppose a person should carry a deed to be recorded in the provincial office; the clerk refuses to record it unless the party will pay him fifty guineas; must he submit to this unreasonable exaction, or run the risk of losing his property by suffering his title to remain incomplete? To avoid that danger, the money is paid; will he not be entitled to recover of the officer by the verdict of a jury, what they might think above the real value of the service? Or, suffering his title to remain incomplete, might he not sue the officer for damages, first tendering a reasonable fee adequate to the trouble and expence of recording the deed? Answer, Antillon, without equivocation, yes, or no. If the officer might be indicted for extortion, what benefit could the people expect from such a prosecution, when the power of granting a *nolle prosequi* is confessedly vested in the government? The present

regulation, we are told, "contains no enforcement of payment from the people, the officer being left to his legal remedy." There is not, it is true, any immediate enforcement of payment, unless, indeed, the officer should refuse to do the service, which, as I formerly remarked, would be in most instances an effectual method of enforcing payment.

Suppose the officer should not insist on an immediate payment, and that his account of fees should be contested; he brings an action to recover his fees, according to the very settlement of the Proclamation; to whose decision is this question to be left? To the judges? or to a jury? If to the former and they should be of opinion, that the Governor has a right to regulate fees by Proclamation, when there is no prior establishment by law, and the defendant should refuse to submit to the sentence of the court, he will be committed to jail, or the sum will be levied by execution of his effects; distress though delayed for some time, will surely overtake him in the end. Some of the judges discover a disinclination to remain in office; they solicit a removal, granted and approved of; others are requested to succeed them; should he not have cause to suspect the rectitude of applications made to men who have publicly declared their opinion of the legality of the measure attempted to be enforced by the sanction of the courts of justice?

Other methods may be employed to enforce the Proclamation. The powers of government will awe the timid into a compliance; the necessitous cannot withstand the force of temptation, or the threats of power, the disobedient and refractory must relinquish all hopes of promotion, or of promoting their friends; who have favours to ask at court, must merit court favour by setting examples of duty and submission.

It has been alleged that fees are taxes; to prove the assertion, the authority of Coke and reasons grounded on the general principles of the constitution have been produced; mark how, Antillon has endeavored to get over the authority, and confute the reasons. One of the great objections to the Proclamation is, that it imposes a tax on the people, and consequently is competent to the Legislature only. Antillon contends, that fees are improperly stiled taxes, because they have been settled by the separate branches of the Legislature, which only can impose a tax. I have already exposed the sophistry of this argument, I hope to the satisfaction of the unprejudiced; some farther elucidation, however, may be necessary to men not thoroughly conversant with the subject. The Lords and Commons, and the Upper and Lower Houses of Assembly have each separately settled the fees of their respective officers by the particular usage of Parliament, which must be deemed an exception to the general law, and ought, as all exceptions, to be sparingly exercised, and in such cases, and in such manner, only as the usage will strictly warrant. It was foreign to my purpose to inquire into this usage, custom or law of Parliament, to investigate its origin, or to examine its constitutionality. On an inquiry, it would perhaps be found co-eval with Parliaments. But do you, Antillon admit the right of the Lower House to rate the fees of its officers? If you do not admit the right, to argue from the mere exercise of it, is certainly unfair in *you*. You still insist that I have admitted the right of the judges to settle the fees of the officers attendant on their courts; be pleased to turn to the passage in my answer to your first paper, part of which you have cited, and then be candid enough to acknowledge, if you have not willfully misrepresented, that you have mistaken my

meaning. The major proposition, that taxes cannot be laid, but by the Legislature, I have admitted with this exception, "*saving in such cases*," &c. It was not incumbent on me to prove the exception, it is sufficiently proved by the journals of Parliament; the *right*, or the *power*, if you like that word better, has been frequently exercised, whether constitutionally, or not is another question. The two Houses of Parliament are the sole judges of their own privileges, with which I shall take care not to intermeddle. Inconsistencies in all governments are to be met with; in ours the most perfect, which was ever established, some may be found.

A partial deviation from a clear and fundamental *maxim* of the constitution cannot invalidate that *maxim*. To explain my meaning. It is a settled principle of the British constitution, that taxes must be laid by the whole Legislature, yet in one instance, perhaps in more, the principle hath been violated. The separate branches of the Legislature have settled the fees of their own officers. Antillon has inferred from that exception to the general rule, or maxim which exception should be considered as the peculiar privilege of Parliament "that fees are not taxes." He has admitted, (if I comprehend his meaning) that fees are sometimes taxes, that is, when imposed by the Legislature; but when regulated by the judges they come not within the legal definition of a tax. Thus the fees regulated by the late inspection law were taxes, the same fees now attempted to be established by proclamation cease to be taxes because regulated by an authority distinct from the legislative; but are their nature and effects altered by these two different modes of settlement? Should an act of Parliament pass for the payment of the identical fees, laid to be paid to officers, under the sole authority of the judges; according to Antillon's doctrine,

the fees thus established by act would become instantly taxes; but are they less oppressive, because settled by the discretion of the judges? I presume to think them more oppressive, because of a more dangerous tendency, particularly from a disagreement between the branches of the Legislature, that authority may interpose, and establish the very fees, and along with them, a variety of abuses which the representatives of the people wish to have reformed. "The judges are not governed by the law of Parliament, they have no authority to tax the subject, but their allowance of fees to their necessary officers is lawful—" of ancient fees—admitted. I had observed—"It *does not appear that the judges have ever imposed new fees* by *their sole authority*."

In answer to this Antillon remarks "that the fees when originally allowed were *new*, and the allowance being made by the judges therefore they originally allowed *new* fees, and if fees when originally taxed were new, they have not ceased to be taxes in consequence of the frequent repetition of the acts of payment and receipt, and of their having obtained the denomination *ancient fees*." It will be proper to remind Antillon of another observation which I made in my former papers on this very subject, and of which he has taken no notice. The King originally paid *all his officers* out of his own revenue; the subject was not taxed to support the civil establishment; in extraordinary emergencies, as foreign or civil wars; tenths, fifteenths, and other impositions were granted by the common Parliament to defray extraordinary expenses. It was consistent with the principles of the constitution, and agreeable to justice, that the King who paid *all his officers* out of his own purse, should have the right of ascertaining their salaries, or of delegating that right to his judges. The ancient fees so often spoken

of, were those perhaps, which the King formerly paid, and were settled by the judges, I say perhaps, for in a matter so obscure, it would be rash to pronounce decisively. If I am right in this conjecture, *ancient* fees were not originally taxes because not paid originally by the people.

Ancient usage, according to Bacon, gave fees an equal sanction with an act of Parliament ; upon this principle I apprehend that such fees are presumed to have been originally established by the proper authority, although their commencement and the authority which imposed them at this day be unknown—" At common law, none of the king's officers whose offices, did *any way* concern the administration of justice, could take any reward for doing their office, but what they received of the King—" These words are sufficiently comprehensive to take in all the inferior ministers and officers of the courts of Justice. The fee of 20s. commonly called the bar fee was an *ancient fee*, says Coke, taken *time out of mind* by the sheriff of every prisoner acquitted of felony ; " and therefore according to the above principle laid down by Bacon, acquired an equal sanction with fees established by law ; " an office " erected for the public good, though no fee is annexed to it, is a good office, and the party for the labor and pains which he takes in executing it, may maintain a *quantum meruit*, if not as a fee, yet as competent recompence for his trouble." This clearly relates to an office newly erected ; but what follows seems to include the unsettled fees of all offices new and old. " Where a person was libelled in the ecclesiastical court for fees, upon motion, a prohibition was granted for *no court has a power to establish fees ;* the judges of the court may think them reasonable, but this is not *binding*." But if on a *quantum meruit*—a jury thinks them reasonable, then they become

established fees;—probably the fees, which now go under the denomination, *ancient fees*, and not expressly given by act of Parliament, were originally established by the verdict of a jury, and their having been long allowed by the courts of justice, may be deemed presumptive evidence of such establishment.

The method of reforming abuses in the courts of justice by the presentment of experienced practicers upon oath, appointed by the judges, to inquire what fees had been exacted other than "*the ancient and usual fees*," seems to favor this conjecture. In the year 1743 an order was made in chancery by Lork Hardwicke reciting, that the King, upon the address of the Commons, had issued his commission for making a diligent and particular survey, and view of all officers of the said court, and inquiring what fees and wages every one of these officers, might, and ought *lawfully* to have in respect of their offices, and what had of late time "been unjustly and [unlawfully] imposed upon the subject, etc." "Then are added"—continues Antillon, "tables of fees of the respective offices, and among the fees settled by this order are the fees of the master of the rolls," who advised and assisted the chancellor in making the settlement. How is this transaction to be reconciled with the doctrine of Hawkins, "that the courts of justice are not restrained from allowing reasonable fees to their officers, as the chief danger of oppression is from officers being left at liberty to set their *own rates*, and make their *own demands*?" In this instance certainly, if by the settlement aforesaid an imposition of new fees, and not an authentication of the old established fees, be understood, the master of the rolls was advised with, and assisted in setling his own rates. Is this proceeding consonant to the principles of justice? What says Hawkins? "There

can't be so much fear of abuses when officers are restrained to *known* and *stated fees* settled by the discretion of the courts, because the chief danger of oppression etc." Should the judges be any ways interested in the settlement [1] of their officer's fees, would not the reason assigned by Hawkins for the interposition of their authority, in the manner explained by Antillon, operate most forcibly against the exercise of it? Would it for instance be agreeable to equity and natural justice, to permit the Secretary of this Province to settle the fees of the county clerks, on the gross amount of whose lists he receives a clear tenth; carry the case a little farther; suppose the practice had long prevailed of offering the Secretary a genteel present on every grant of a commission for a county clerkship? The gratuity would probably bear some proportion to the value of the place bargained for. Do the judges in Westminster Hall receive gratuities on granting offices in their appointment? If they do, Hawkins' reason is *felo de se;* it is the strongest that can be urged against the power, which it is meant to support. If the judges have an interest in the offices, in their disposal, a discretionary power to allow fees to their officers, is in some measure a power of settling their *own rates* and making *their own demands.* Coke's authority proves most clearly, that new fees annexed to old offices are taxes; whether the fees settled by proclamation are *new fees* remains to be considered: "fees," says Antillon "may be due without a precise settlement of the rates, and the right to receive them, may be coeval with the first creation of the offices, as in the case of our old and constitutional offices; when such fees are settled they

[1] If such settlement implies a discretionary power in the judges to fix the precise rates to be paid to their officers, when they are not fixed by ancient usage, the verdict of a jury, or by Act of Parliament.

are not properly *new* fees, and therefore a regulation restraining the officer from taking beyond a stated sum for each service, when he was before entitled to a fee for such service is not granting or annexing a *new fee* to an old office."

The question therefore is now reduced to these two points—1st, Has not government attempted to settle the rates of officers' fees by proclamation? 2dly, Are not fees so settled—new fees? If they are, upon Antillon's own principle, government hath no right to settle them. The restraint laid on officers, by the Proclamation from taking *other* or *greater* fees than allowed by the late regulation, can be considered in no other light than an implied affirmative allowance to take such fees, as were allowed by that regulation, and of course must be deemed *an intended* settlement of the rates.[1] The fees payable to our old and constitutional officers, have been differently rated by different acts of Assembly; those various rates were never meant to be extended beyond the duration of the temporary acts, by which they were ascertained, for one principal reason of making those acts temporary, we have seen, was to reduce the rates occasionally, and to lessen the burthen of them. On the expiration therefore of the late inspection law, the regulation of officers' fees expired with it, that is, there remained no obligation on the people to pay the rates settled by that, or any former regulation, and consequently the fees, as to the *quantum* or precise sum, were then unsettled. Government entertained the same opinion, and issued a Proclamation to ascertain the rates, or as is sometimes pretended to prevent extortion, because the rates being unsettled, the officers might have demanded *any fees;* the fees there-

[1] I say intended, because the settlement by Proclamation being illegal, is in fact no settlement.

fore, not being settled when the inspection law fell, the settlement of them by proclamation was a *new* settlement, and of course the fees so settled were *new*, but new fees, according to Coke cannot be annexed to old offices unless by act of Parliament; his authority therefore, even as explained by Antillon, proves that a settlement by proclamation of fees due to *old* officers is illegal. A mere right in officers to receive fees, cannot be oppressive; the actual receipt only of excessive or unreasonable fees is oppressive; now, who are the properest judges whether fees be excessive or moderate? Officers certainly are not, the same objections which may be made to their decision, apply to the Governor, and most of them to the judges; juries may be partial or packed.

All these considerations plead strongly for a legislative regulation, which is liable to none of the objections hinted at. The doctrine laid down by Antillon in opposition to Coke's, teems with mischief and absurdities—"Old officers have a right coeval with their institution to receive fees," the inference therefore "when their fees are not ascertained by the Legislature, the judges may ascertain them," is by no means logical, it contradicts the most notorious and settled point of the constitution, it lodges a discretionary power in the judges appointed by the Crown, and formerly removable at pleasure, to impose excessive fees, and consequently to oppress the subject, without a possibility of redress, should the King or Lords refuse to concur with the Commons in passing a law to moderate the rates, and to correct abuses.—"The governor adopted the late rates as the most moderate of any."—If he might have adopted any other rates, his *exceeding lenity* deserves our warmest thanks; but then we are more indebted to his indulgence, than to the limitation of prerogatives; we cannot therefore be said to

enjoy true liberty, "for that," (as Blackstone justly observes) "consists not so much in the gracious behaviour, as in the limited power of the Sovereign."

According to Antillon—"The late regulation of fees expiring with the temporary act, the governor's authority to settle the rates revived," and he insinuates that, it was optional in him to adopt the rates of the late, or of any prior regulation, or even to prescribe rates entirely new. "If the old and constitutional officers have a right to receive fees, have they not, it may be asked, a remedy to come at that right, and if so, what remedy?" The remedy, which the constitution has given to every subject under the protection of the laws. If a contest should arise between the officer and the person for whom the service is done, about the quantum of the recompence, the former must have recourse to the only true and constitutional remedy in that case provided, the trial by jury. Among other great objections to the Proclamation, at least to Antillon's defence of it, are his endeavors to set aside that mode of trial, the best security against the encroachments of power, and consequently the firmest support of liberty. The person, who calls himself Antillon, has filed a bill in chancery for the recovery of fees, principally due for services done at common law; by appealing to the court of chancery, of which the governor is sole judge, and in whom, he contends, the will to ordain the rates, and the power to enforce them are lodged, he has endeavored to establish a tyranny in a land of freedom.[1] In answer to the declaration of Chief Justice Roll, I shall give the declaration of a subsequent chief justice, of greater, at least, of equal authority. The case I allude to is reported by Lord Raymond, Vol. I. p. 703. It was

[1] See the Governor's answer to the address of the House of Delegates in 1771.

attested by council that the court of King's Bench, or judge of assize respectively, would exert their authority and commit persons refusing to pay fees due to the *old officers* of the courts, and that this was the constant practice. "But Holt, chief justice said, he knew of no such practice; he could not commit a man for not paying the said fees. If there is a right, there is a remedy; an *indebitatus assumpsit* will lie, if the fee is certain, if uncertain, a *quantum meruit*—" and in both instances, a jury is to be judge. From hence it may be collected, that when the fees claimed by the *old* and constitutional officers were *unascertained* recourse was had to a jury, that their verdict might ascertain them. When fees are due to old officers, and not settled by the Legislature, a jury only, upon the principles of our constitution can settle them.

The uniform practice of the courts cannot establish a doctrine inconsistent with those principles. "If on enquiry into the legality of a custom, or usage, it appears to have been derived from an illegal source, it ought to be abolished; if originally invalid, length of time will not give it efficacy." It has been already noticed that the authority exercised by the judges of settling fees, that is, of ascertaining the *ancient* and *legal fees*, in pursuance of a commission issued by the King, on the address of the House of Commons, is very different from the authority now set up, of settling fees by proclamation, issued contrary to the declared sentiments of the Lower House of Assembly; if judges in this Province may settle fees because the judges in England have settled them, in the manner above-mentioned, where was the necessity of ascertaining fees by proclamation? Was it to influence and guide the decision of our judges? If they have a right to exercise their own judgment in settling fees, in

fact, in imposing them, why was a standard held up by the supreme magistrate for their direction? In setting up that standard, is it not notorious, that he was advised, and principally guided by the very man who is most benefited by that illegal settlement? Notwithstanding the misrepresented power of the English judges to regulate fees, and the different orders of the courts in Westminster Hall for restraining the exaction of illegal fees, the encroaching spirit of office had rendered all the precautions of the judges ineffectual; insomuch, that the Commons in the year 1730 were obliged to take the matter under their own consideration. I mentioned in a former paper that transaction. In consequence of the enquiry a report was made by the committee in 1732 to the House of Commons, from which I gave some extracts in my first answer to Antillon. It appears from the report, "That orders had been sometimes made for the officers to hang up publickly lists of their fees, most of which lists are since withdrawn, or have been suffered to decay and become useless; that the officers themselves seemed often doubtful what fees to claim, and *most of them* relied upon no better evidence than some information from their predecessors, that such fees had been demanded and received." It is hereby evident, that the regulation of officers fees had been long neglected, that in consequence of such neglect excessive abuses had crept into practice, and had grown from length of time into a kind of established rights; that a thorough discovery and reformation of those abuses required more time and attention than the Commons could spare from more important objects. As well might they have attempted to cleanse the Augean stables, a work, which the strength only of a Hercules could accomplish; disgusted with the tediousness and intricacy of the inquiry, they probably

chose to refer the correction of abuses to the judges, men of integrity, and best acquainted wilh the practices of their own officers, and of course best qualified to reform them.

It is asserted by Antillon that the legislative provisions do not extend to any considerable proportion of the fees of officers and therefore, that by far the greatest part of officers' fees hath been settled by allowance of the courts, and not of statutes—this fact may be admitted, and the inference he would draw from it be denied ; that judges have allowed fees to their officers in the first instance, without the intervention of a jury to ascertain them. If the judges have acted thus, they have certainly assumed a power contrary to the Petition of Right, contrary to this first and most essential principle of the constitution, "that the subject shall not be compelled to contribute to any tax, tallage, aid or *other like charge*, not set by common consent in Parliament." All levies of money from the subject by way of loan or benevolence, are also cautiously guarded against by the Petition of Right. The very *putting* or *setting* a tax on the people, though not levied, has been declared illegal ; even a *voluntary* imposition on merchandize—*granted* by the merchants, without the approbation of Parliament, gave umbrage to the Commons, was censured and condemned. "This imposition though it were not set on by assent of Parliament, yet it was not set on by the *King's absolute* power, but was granted to them by the *merchants themselves*, who were to be charged with it. So the grievance was the violation of the right of the people in setting it on without their assent in Parliament, *not* the damage that grew by it, for that did only touch the *merchants*, who could not justly complain thereof, because it was their own act and grant." Petyt parliam: p. 368–369.

A tax may be defined a rate, settled by some publick charge, upon lands, persons or goods. By the English constitution the power of settling the rate is vested in the Parliament alone, and in this province in the General Assembly.

Representation has long been held to be essential to that power, and is considered as its origin ; upon this principle the House of Commons, who represent the whole body of the people, claim the exclusive right of framing money bills, and will not suffer the Lords to amend them. The regulation of officers' fees in Maryland has been generally made by the Assemblies. The authority of the Governor to settle the fees of officers has twice only, as we know of, interposed, but not then, without meeting with opposition from the delegates, and creating a general discontent among the people, a sure proof that it has always been deemed dangerous and unconstitutional. The fees of officers, whether imposed by Act of Assembly, or settled by proclamation, must be considered as a publick charge, rated upon the lands, persons or goods of every inhabitant holding lands, or possessed of property within this Province. That they have been looked upon as such by the officers themselves, is evident from their lodging lists of their respective fees with the deputies from this Province to the Congress at New York, who might thereby be enabled to make known to his majesty, and to the Parliament, the great expence of supporting our civil establishment. The author of the "Considerations" once entertained the same idea, but such is the versatility of his temper, such his contempt of consistency, that he changes his opinions, and his principles, with as little ceremony as he would change his coat. Speaking of the sundry charges on tobacco— "The planter" (says he) "pays a tax at least equal to

what is paid by any farmer of Great Britain possessed of the same degree of property, and moreover the planter must contribute to the support of the *expensive internal government of the colony* in which he resides." Now, the support of civil officers, unquestionably constitutes a part of that expence—he then refers to the appendix, where we meet with the following note. "The attentive reader will observe, that the nett proceeds of a hogshead of tabacco at an average are 4£ and the taxes 3£—Quaere—how much per cent. does the tax amount to which takes from the two wretched tobacco colonies 3£ out of every 7£—and how deplorable must their circumstances appear when their vast debt to the mother country and *the annual burthen of their civil establishments* are added to the estimate."

Impressed with the same idea were the conferrees of the Upper House in the year 1771. In their message of the 20th of November they assert "Publick offices were doubtless erected for the benefit of the community, and for the same purpose are emoluments given to support them." All taxes whatever are supposed to be imposed and levied for the benefit of the community. If then fees are taxes, *or such like charges*, it may be asked, how came Parliament to place such confidence in the judges as to suffer them to exercise a power, of which those Assemblies have always been remarkably tenacious, and which is competent to them only? I might answer this question by asking another; how came many unconstitutional powers to be exercised by the Crown, and suffered by Parliament? for instance, the dispensing power—the answer is obvious; it required the wisdom of ages, and the accumulated efforts of patriotism, to bring the constitution to its present point of perfection; a thorough reformation could not be effected at once; upon the

whole, the fabrick is stately and magnificent, yet a perfect symmetry, and correspondence of parts is wanting; in some places, the pile appears to be deficient in strength in others the rude and unpolished taste of our Gothic ancestors is discoverable—"*hodieque manuet vestigia ruris.*" It does not appear in many instances, upon what occasions, and in what manner, the judges have allowed fees to their officers—that is, have permitted them to take fees, not before settled by law, usage, or the verdict of a jury. The power if conclusive on the subject, and if exercised in the manner explained by Antillon, is unjustifiable and may be placed among those contradictions, which formerly subsisted in the more imperfect state of our constitution, and of which some few remain even unto this day. How it came to be overlooked by Parliament may be accounted for somewhat after this manner. The liberties, which the English enjoyed under their Saxon Kings, were wrested from them by the Norman conquerer; that invader entirely changed the ancient constitution by introducing a new system of government, new laws, a new language and new manners. The contests, which some time after ensued between the Plantagenets, and the barons, were struggles between monarchy and aristocracy, not between liberty and prerogative: the common people remained in a state of the most abject slavery, a prey to both parties, more oppressed by a number of petty tyrants than they probably would have been by the uncontrouled power of one.

Towards the close of the long reign of Henry the 3rd we meet with the first faint traces of a House of Commons; that house, which in process of time, became the most powerful branch of our national assemblies, which gradually rescued the people from aristocratical, as well as from regal tyranny, to which we owe our present

excellent constitution, derived its first existence from an usurper[1] Edward the First has merited the appellation of the English Justinian by the great improvements of the law, and wise institutions made in his reign. He renewed and confirmed the great charter, and passed the famous statute, *de tallagio non concedendo*, against the imposition of, and levying taxes without consent of Parliament. Within the meaning of which act, says Coke, are new fees annexed to old offices. Have any new fees been annexed to old offices since that period by the sole authority of the judges? or have they increased the old and established fees? if either, they have certainly acted against law. If Coke was of opinion, that the judges had a discretionary power to settle the fees of old offices, it is most surprising he did not intimate as much in his comment on this statute, so often quoted. He not only ought to have declared his opinion on that occasion, but also to have shewn the difference between a settlement of fees due of old and constitutional offices and the annexing new fees to old offices. I believe it would have puzzled him, as much as it has Antillon, to shew the difference; in reality, there is none, they are but different names for the same thing. Although the necessities of Edward, and the exigency of the times, forced him to submit to those limitations of prerogative, he frequently broke through them; from whence we may conclude, that public liberty was imperfectly understood in that rude and unlettered age, and little regarded by a prince impatient of restraint, and fond of arbitrary power, though inclined to dispense equal justice among his subjects. The fatal catastrophe of his son, and the causes which occasioned it, are well known. In those

[1] Simon Montfort, Earl of Leicester. *Vide* 1st vol. Parliamentary History.

times of discord and distraction, the greatest enormities were committed by the very men, who under the pretence of reforming abuses, sought to promote their own power.

Equally unfortunate, and equally unfit for improving the constitution, was the reign of Richard the 2nd. Hume teaches us what idea we ought to form of the English government under Edward the 3rd—"Yet on the whole it appears that the government at best was only a barbarous monarchy, not regulated by any fixed maxims, nor bounded by any certain undisputed rights, which were in practice regularly observed. The King conducted himself by one set of principles, the barons by another, the commons by a third, the clergy by a fourth; all these systems of government were contrary and incompatible: each of them prevailed according as incidents were favorable to it." This short historical deduction may seem foreign to my subject, but it really is not. The frequent and bare-faced violations of laws favorable to the people, the pardoning of offences of the deepest dye, committed by men of the first distinction, or the inability to punish the offenders, the curruption and venality of the judges, all tend to discover that practices as subversive of liberty, as a discretionary power in the judges to impose fees, went unnoticed, or remained unredressed. From the deposition of Richard the 2nd to the battle of Bosworth, the English were continually involved in wars, foreign or domestic. *Silent leges inter arma.*

We may presume, during that period, the courts of justice were but little frequented, and the business transacted in them inconsiderable; from whence we may infer, that the rules of practice, and orders established by the judges in their courts being slightly known to the

nation at large, escaped the notice of Parliament, in a time of general poverty, and confusion. Frequent insurrections disturbed the peace of Henry the 7th. The first Parliament of his reign was chiefly composed of his creatures, devoted to the house of Lancaster, and obsequious to their sovereign's will. The 2nd Parliament was so little inclined to inquire into the abuses of the courts of law, or into any other grievances, that the Commons took no notice of an arbitrary taxation, which the king a little before their meeting, had imposed on his subjects. His whole reign was one continued scene of rapine and oppression on his part, and of servile submission on that of the Parliament. "In vain (says Hume) did the people look for protection from the Parliament: that assembly was so overawed, that at this very time, during the greatest rage of Henry's oppression the Commons chose Dudley their speaker, the very man, who was the chief instrument of his oppressions." Henry the 8th governed with absolute sway; Parliaments in that prince's time, were more disposed to establish "tyranny than to check the exercise of unconstitutional powers"[1] During the reigns of Edward the 6th, Mary and Elizabeth, these assemblies were busily engaged in modelling the national religion to the Court standard; their obsequiousness in conforming to the religion of the prince upon the throne, at a time, when the nation was most under religious influence, leaves us no room to expect a less compliant temper in matters of more indifference. In truth; under the Tudors, Parliaments generally acted more like the instruments of power, than the guardians of liberty.

The wise administration of Elizabeth made her people

[1] An act was passed in his reign to give proclamations the force of law.

happy. Commerce began to flourish, a spirit of industry and enterprise seized the nation ; it grew wealthy, and law, the usual concomitant of wealth, increased. "In the 40th year of her reign, a presentment upon oath of 15 persons for the better reformation of sundry exactions and abuses supposed to be committed by the officers, clerks, and ministers in the high Court of Chancery was shewed to the Committee" (appointed by the House of Commons in 1739, to inquire into the abuses of the courts of law and equity), "by which presentment it plainly appeared who were the officers of the Court at that time and what were their legal fees." It appears from the same report, that the officers of the Court of Chancery had exceedingly increased since the 40th year of Elizabeth to that time, by patents and grants, and in consequence, I suppose, of the increased business of the Court. It likewise appears from the report aforesaid, that commissions had frequently issued in former times to inquire into the behaviour of the officers in the courts of justice, with power to correct abuses. The enrolment of two such commissions in the reign of James the 1st, and four in the reign of Charles the 1st, were produced to the committee, but they certify that no such commission had issued since the Reformation.

During the reign of Charles the 2nd, Parliaments were sedulously employed in composing the disorders consequent on the civil wars, healing the bleeding wounds of the nation, and providing remedies against the fresh dangers with which the bigotry and arbitrary temper of the king's brother threatened the constitution. Since the Revolution Parliaments have relaxed much of their ancient severity and discipline. Gratitude to their great deliverer, and a thorough confidence in the patriotic princes of the illustrious house of Brunswick have ban-

ished from the majority of those assemblies all fears and jealousies of an unconstitutional influence in the Crown. Parsimonious grants of public money have grown into disuse; a liberality bordering upon profuseness has taken place of a rigid and austere economy; complacence and compliment have succeeded to distrust and to Parliamentary inquiries, into the conduct and to impeachments of *ruling ministers*. While Parliaments continue to repose this unbounded confidence in his Majesty's servants, we must not expect to see them very solicitous to lessen the profits of officers appointed by the Crown. Political writers in England have complained bitterly of the vast increase of officers, placemen, and pensioners, and to that increase have principally ascribed an irresistible influence in the Crown over those national councils. Will any impartial man pretend to say that these complaints are altogether groundless? exaggerated they may be. Let us, my countrymen, profit by the errors and vices of the mother country; let us shun the rocks, on which there is reason to fear her constitution will be split. The liberty of Englishmen, says an admired writer, can never be destroyed but by a corrupt Parliament, and a Parliament will never be corrupt if government be not supplied with the means of corrupting. Among these various means, we may justly rank a number of lucrative places in the disposal of the Crown.

A member [1] of the House of Commons speaking on this very subject, before the House, expressed himself in the following manner: "But the Crown having by some means or other got into its possession the arbitrary disposal of almost all offices and places, ministers soon found that the more valuable those offices and places

[1] Edward Southwell, Esq.; *vide* Debates of the House of Commons for the year 1744, anno. 18 George 2d.

were, the more *their* power would be extended; therefore, they resolved to make them lucrative as well as honourable, and from that time they have been by degrees increasing not only the number of offices and places, but also the profits and perquisites of each." "Not only large salaries have been annexed to every place or office under government, but many of the officers have been allowed *to oppress the subject by the sale of places under them, and by exacting extravagant and unreasonable fees*, which have been *so long suffered* that they are now looked upon as the *legal perquisites* of the office, nay, in many offices they seem to have got a *customary right* to defraud the public, and we know how careful some of our late ministers have been to *prevent or defeat any Parliamentary inquiry into the conduct and management of any office.*"

I am inclined to think that some of our former Assemblies foresaw the great power, which the offices established in this province for the futherance of justice, and administration of government, would sooner or later throw into the hands of the persons invested with those offices; a little foresight might have discovered, that their incomes would increase amazingly with the rapid increase of population, trade, and law. Aware of the danger they wisely determined to provide a timely remedy, and fell upon the true, and only expedient, by passing temporary laws for the limitation of officers fees, not by delegating that most important trust to judges removable at pleasure, liable to be swayed, perhaps, disposed to overlook the evil practices of their officers, and even to countenance "the *new invented and colourable charges of combined interest and ingenuity.*" I have mentioned the great abuses, which had infected the courts of justice in England, the methods these pursued to correct

them, and to prevent the exaction of *new* and illegal fees, and the long interruption of those methods, or inquiries.

The grievance had become so intolerable that the Commons were at last forced to take cognizance of it themselves; from the necessity of their interposition, either a neglect in the judges to reform abuses, or a want of power is deducible; and hence this other inference may be drawn, that a law, limiting the fees of officers, is the best method of preventing their encroachments and illegal practices. Notwithstanding the late law many abuses had been committed by officers in the manner of charging their fees under that law. These abuses, if the Proclamation should be enforced, will continue, and go on increasing till they become insupportable to a free people, or the people be enslaved by a degenerate and abject submission to that arbitrary exertion of prerogative. The necessities of the English kings, which constrained them to have frequent recourse to Parliamentary aids, first gave rise to, then gradually secured, the liberty of the subject. In this Colony, government is almost independent of the people. It has nothing to ask but a provision for its officers; if it can settle their fees without the interposition of the Legislature, administration will disdain to owe even that obligation to the people. The delegates will soon lose their importance, government will every day gain some accession of strength; we have no intermediate state to check its progress; the Upper House, the shadow of an aristocracy, being composed of officers dependent on the Proprietary and removable at pleasure, will, it is to be feared, be subservient to his pleasure and command.

I shall now proceed to examine Antillon's answer to my former arguments against the power of regulating fees by proclamation. The whole force of his first answer depends

on the revival of the authority, which he contends existed before the enaction of the temporary law ; if that authority is illegal, it did not exist, and consequently could not revive. The reasons already assigned prove the illegality. 2nd Answer : "Parliament may have peculiar motive, &c. &c." Parliament it is true, may have many motives for settling fees in various instances. To preclude a discretionary power in the judges, incompatible with the spirit of our constitution, and to obviate the inconveniences resulting from uncertainty, and endless litigation, should induce Parliament to settle the fees in every instance. The notion of the judges and the Parliament having a co-ordinate power, which might clash, was never entertained ; from the absurdity of two co-equal powers subsisting in the same state, a subordination of the judges to Parliament was inferred ; but if mercenary officers, or an artful intriguing minister, by obstructing a legislative regulation of fees, may leave the power of the judges uncontrolled by Parliament, and at liberty to act, then do I insist, that the authority of Parliament to regulate fees may be rendered altogether useless and nugatory.

3rd Answer : "I might in my turn suppose &c., &c." Thus may the most insolent, profligate, and contemptible Minister, that ever disgraced a nation, or the prince, suppose every opposition to his measures flows from similar motives. I argue not upon supposition, but from facts. The late regulation of fees was unequal, therefore unjust. A planter paid 20*s* for the same service, which cost the farmer only 10 s. To place all the subjects on equal footing was doing equal justice to all ; it was bringing back the law to its true spirit and original intent. Abuses had crept into practice, owing either to design, or to a misconception of the act, or to a doubtfulness of expression ; among others, fees were often charged for

services not done; the delegates attempted to reform these abuses, and to lessen the rates where excessive; in this laudable attempt they were disappointed by the obstinacy and selfishness of men, who made themselves judges of their *own merits* and *own rewards*. I agree with Antillon: "That our Constitution may be much improved by altering the condition of our judges, by making them independent, and allotting them a liberal income." But I fancy the delegates would disagree with him about the means. They perhaps would propose to lessen the exorbitant income of an inferior officer, who does little to deserve it, who grows more insolent as he grows more wealthy, and by a reduction of fees annexed to his, and to other offices not attended with much trouble, they would probably endeavor to make such savings, as might enable them to allow the judges a genteel salary without loading the people with any considerable additional charge. Another very great improvement might be made in our Constitution, by excluding all future secretaries, commissaries general, and judges of the land office from the Upper House; till that event takes place, we may despair of seeing any useful laws pass, without some disagreeable tack to them, should they clash with their particular interests. Those officers have long been connected with the law for the regulation of our staple, a law of the most salutary and extensive consequence to the community, and which has hitherto been purchased by a particular attention to their interests, and a deference to their demands, as impolitic as unaccountable in the representatives of a free people.

4th Answer: A great part of this Answer has been already obviated. It has been noticed, that the excessive exactions so much talked of, and so much dreaded by our *merciful minister*, are mere bugbears. Freemen

are not to be terrified with visionary fears : over-solicitude to protect us from imaginary dangers, and a strong inclination discovered at the same time to pick our pockets, look a little like mockery. Fees being taxes ; to impose them on the subject by proclamation, was as illegal as to levy ship-money by proclamation. The design of the two measures was nearly the same. Charles wanted to raise money without a Parliament, and our upstart minister wanted to provide for himself and his brother officers without an Act of Assembly, as the delegates would not provide for him, and them, in a manner suitable to their wishes. Was not the legality of the ship-money assessment determinable in the ordinary judicatories? Did it not receive the most solemn sanction ? The sanction of eight judges out of twelve ? You still retain, Mr. Antillon, all the low evasive cunning of a pettifogger.

Quo semel est imbuta recens servabit odorem
Testa diu.[1]

5th Answer :—When fees are not ascertained by law, the verdict of a jury must ascertain them ; when thus ascertained—the judges in awarding costs are obliged, by statute, to include them in the costs ; the necessity therefore of fixing the rates of fees, either by proclamation, or by the allowance of the judges, is a *pretended* and *false* necessity : consequently not *urgent* and *invincible*. If such a necessity really exists when there is no legislative regulation of fees, it was foreseen in 1770, and ought to have been guarded against by passing an Act of Assembly for settling the rates. The *pretended* necessity therefore aggravates *their* crime, who from a mercenary motive prevented a regulation by law. The famine, which occasioned the embargo, was not a *sudden and peculiar necessity ;* it was apprehended long before it was

[1] Hor., "Ep.," i., 2, 70.

felt ; Parliament might have been assembled, its advice taken, and a law passed to enable his majesty to lay the embargo. The ministers were blamed for not calling the Parliament in proper time, and the *necessity* of acting against law flowing from *that neglect*, was urged as their accusation, not their excuse. Although the question, "*whose fault was it that a legislative regulation did not take place?*" be not determinable in any jurisdiction or by any legal authority, yet, has a discerning public already decided it, and has fixed the blame on the proper person. Although he cannot be punished by the sentence of any ordinary judicature, yet might he be removed from office, on application made to the governor by the delegates of the people.

Encomiums on the disinterestedness of officers, and censures of some obnoxious members, in fact, of the whole Lower House, come with peculiar propriety and decorum from a man, who is an officer, and was particularly levelled at in the spirited and patriotic resolves of that House. It might have given satisfaction to *many* to have had the regulation of the clergy and officers established on the terms once proposed by the Upper House ; but this satisfaction would not have resulted from a conviction, that the terms offered were just and advantageous to the public, but from a despair of obtaining better ; if this despair should become general, the cause of the public must yield to the interest of a few officers. Disgraceful and afflicting reflection ! Not a single instance can be selected from our history of a law favourable to liberty obtained from government, but by the unanimous, steady, and spirited conduct of the people. The great Charter, the several confirmations of it, the Petition of Right, the Bill of Rights, were all the happy effects of *force* and *necessity*.

I am not surprised that Antillon's resentment should be directed against a man who has publickly spoke some very home truths. The wit and verses borrowed from Horace cannot destroy the evidence of facts. I am restrained by the limits of this paper from descanting on the merits of tub oratory, it has its use and abuse, like most other institutions, and is not so prejudicial to characters attacked, as the whispered lye, the dark hint, and jesting story told with a sting at the end of it. I know a person, who has an admirable knack at defamation in this sly, oblique, insinuating manner; he has stabbed many a reputation with all the appearance of festivity and *good humor;* in the midst of gaiety, in the social hours of convivial mirth, malice preys inwardly on his soul; sometimes he is given to deal in the marvellous, to captivate the attention of his *admirers* (generally fit tools for him to work with) and to leave on their minds a lively impression of his own consequence. Surrounded by a group of these creatures, he will now and then recount most wonderful wonders! "*Speciosa miracula*,"[1] celebrate his own feats, prowess, and hair-breadth scapes, in short forge such monstrous improbabilities, as would shock the faith of the most credulous Jew. They listening gape applause, "*Conticuere omnes, intentique ora tenebant.*"[2]

Answer 6. Rules or ordinances respecting the practice of the courts may be made without any danger of prejudging questions of law. "Judges have been called upon in council to advise their sovereign *on questions of law*"—true—and in consequence of their advice, pernicious measures have been frequently pursued by sovereigns—witness, the proclamation for levying ship-money,

[1] Hor., "A. P.," 144. *(ut speciosa dehinc miracula promat.)*
[2] Virg., "Æn.," ii., 1.

the dispensing power, and others equally unconstitutional. These examples should make judges very careful how they advise their sovereign ; for bad advice they are amenable to Parliament, and some of them have been punished for giving extra-judicial and unconstitutional opinions.

"*Expedit reipublicae ut fit finis litium.*" "*Misera est servitus ubi jus est vagum*"—are sentiments truly liberal and useful ; equally so are these—*a free constitution* will *not endure* discretionary powers, but *in cases* of the most urgent *necessity*. The property of Englishmen is secured by the laws, not left to depend on the will of the *sovereign*, or of officers *appointed by him*. There is an impropriety in advising measures tending to the immediate benefit of the *advisers*. Self-interest may warp the judgment of the most upright ; hence, the maxim, "no man ought to be a judge in his own castle." The advisers of a measure as *legal* and *expedient* will probably remain of the same opinion when they come to determine on its legality in their judicial capacity. Should the question be brought before the Court of Appeals, ought the officers, who are deeply interested in its decision, to sit as judges? If it would be unjust in them to *judge* of the legality of the Proclamation, there was surely some impropriety in their advising it. The Chancellor in all causes of intricacy is advised by an assistant, whose opinion would not, I presume, be asked, if interested in the suit. Should a bill be filed against the usual assistant, for instance, by a Dutchman, could he be so insensible, as not to discover some anxiety at seeing his adversary in the capacity of an adviser, directing and guiding the opinions of the judge? Would not the impropriety strike even a Dutchman? Would he not have great reason to suspect an unfavourable decree? Had there been an open rupture,

a declared enmity, which still subsisted between the assistant, and one of the parties to a chancery suit, and notwithstanding the assistant should discover an inclination to act in his usual capacity, would not his conduct raise indignation in every honest mind? Reader make the application.

Answer 7. "The Governor was not to be directed by the votes of the majority of the advisers, they having no authoritative influence:" on a former occasion we were told, there can be no difficulty in finding out his (the kings) ministers, "the Governor and Council are answerable in this character." If the Governor is not to be directed by the advice of his Council, why should they be answerable for their advice? He by adopting the measure advised makes it *his own*, because he uses his *own* manly judgment; the advice of the Council can have no authoritative influence over him, and therefore according to Antillon's latter opinion, contradicted by his former, the Governor must take the whole blame upon himself. Oh unsuspicious Eden! How long wilt thou suffer thy self to be imposed on by this deceiving man? "The fee for the seals was the same in all the proposed regulations," and none of them have the least efficacy, wanting the sanction of law. To exact fees under the settlement of the new table, proposed by the Lower House, would be equally unlawful, though not so dangerous, as to exact them under the settlement by Proclamation—"the *Governor receives his fees* now—" and receives them instantly, and will not do the service without immediate payment. The practice may become general, and the good natured easy people of Maryland, will, I dare say—submit to it without reluctance or murmuring.

Answer 8. Antillon has admitted that he concurred with the rest of the Council in advising the Proclamation

as *expedient* and *legal*—he has since justified it as a *necessary unavoidable act.* It is not the first time that "*expediency* has covered itself under the appearance of *necessity.*" From whence does Antillon infer this necessity? The judgment or decree, says he, awarding the costs must *necessarily* be *precise*, unless the officers' fees, which constitute part of the costs be settled; if not settled by a law, they must be settled by *some other authority* and therefore he concludes they must be settled by Proclamation—why not by the verdict of a jury? Endless litigation, it is answered, would ensue from that method of settlement. A much greater mischief I reply—would result from the other; charges would be set, and levied on the people without,—nay against the consent of their Representatives. Between two such evils, what choice have we left? The choice of the least. Hard indeed is the fate of the Province to be reduced to such extremity, that *some officers* may enjoy great incomes for doing little. The Secretary's office is a mere *sinecure*—yet has he had the assurance to ask a net income of £600 sterling per annum to *support his dignity.* To hear Antillon talk in this strain is enough to rouse the indignation of apathy itself; but indignation sinks into contempt, the moment we reflect on the *farcical dignity* of the man.

Answer 9. The fees settled by Proclamation have been proved a charge upon the people; now the settling a charge upon the people without the consent of their Representatives, is a *measure striking at the root of all liberty.* Antillon has endeavored to justify the measure by precedents. The precedents he has produced do not in the least apply. The settlements of fees made by the judges appear to have been merely authentications of the *usual* and *ancient* fees. The long disuse of inquiries into the conduct of officers gave them an

opportunity of exacting *new* and *illegal* fees; the grievance was suffered to run on so long, that at last it became difficult to distinguish the *new* and *illegal* fees from the *ancient* and *legal* fees. The fees so certified by the judges, were to be deemed ancient fees; to facilitate their scrutiny—"juries of officers and clerks were impanelled to inquire, what fees had been usually taken by the several officers, for the space of 30 years last past," on a supposition, I presume, that fees, which had been paid for so long a time, were probably *ancient fees.* The judges therefore, I conceive, did not settle in that instance the rates of fees, but certified what were the rates *heretofore settled.* With us the rates of fees were not settled; the Delegates did not request the Governor to issue a commission to the judges to fix the rates; they remonstrated against the apprehended exercise of the unconstitutional power of settling them by his sole authority. I hope it has been proved, that if the judges settled, that is imposed fees, *not before settled*, they acted against law, and consequently *wrong*, and therefore, "if *what has been* done be wrong, it *confers no right to repeat it.*" To establish which axiom the "Considerations" were cited. I have known you, Antillon, long enough to form a true judgment of your character, and I have exhibited a true picture of it to the public: an intimacy I have cautiously avoided, as dangerous, and disreputable. The frequent repetition of the word "Barber" in all your papers, makes me suppose some concealed wit or joke; perhaps it may be founded on the production of your *fertile invention;* pray disclose it—I will add it to the catalogue; you understand me.

Answer 10. The fees allowed to the petitioning sheriffs by an order of Council of the 15th of July, 1735 had, it seems, been omitted in the Proclamation issued 1733,

and such fees only thus omitted as had been settled by an Act of Assembly or established by any former order of Council were allowed; fees allowed by such orders of Council, cannot, perhaps, with strictness be called increased fees unless the former rates were increased, but the reasons already assigned, demonstrate, they are *new fees*. Had these services, to which fees were annexed by a subsequent Proclamation, been totally omitted in all former orders of Council and temporary acts, would such allowance of fees have been lawful or not? If lawful, it is plain, fees would in that case have been increased, being annexed to services never before provided for. If unlawful, it should seem, that the power, which at the original creation of constitutional offices, might have annexed a fee to every service there enumerated, would be concluded, and might not annex fees to services not there enumerated, though actually performed by the officers; so that whether an officer may lawfully receive a fee does not depend on his doing a service, but on that service having been enumerated, and having had a fee annexed to it in the first settlement, or table of fees; but if under a right to receive fees co-eval with the institution of constitutional offices, the king or his deputies may settle fees, that is ascertain what fee an officer shall take for doing a service, not having a settled or known fee annexed to it, then may government increase *ad libitum* the amount of officers fees. Ingenuity will point out many services performed by old officers, that have no *settled* fees annexed to them, and the right to receive *such fees* being old and constitutional; the settlement of such fees, cannot according to Antillon's doctrine, be deemed an annexation of *new fees* to old offices.

Answer 11. "When the Government in 1692 under-

took to regulate fees, there was an act of Assembly for that purpose," The Delegates did not object to the Governor's undertaking to regulate, *because they were already regulated by law.* If that had been the real cause of the objection they would have declared it, to have precluded at once all controversy; but they objected upon this general principle—"that it is the undoubted right of the freeman of this Province, that no officers fees ought to be imposed on them but by the consent of the Representatives in Assembly." To which general proposition the *government agreed.* The Delegates produced several acts of Parliament to show, that government could not settle the fees of officers by prerogative; but if they relied on the act of Assembly then in force, why did they not cite it? Where was the necessity of citing Acts of Parliament to prove what was already most clearly decided in their favour by a positive and subsisting law of the Province? The instances mentioned by Antillon of fees settled by proclamation prove only the actual exercise of an unlawful prerogative. The dangerous use which has so often been made of bad, should caution us against the hasty admission of even good precedents, which should always be measured by the principles of the constitution, and if found the least at variance, or inconsistent therewith, ought to be speedily abolished. "For millions entertain no other idea of the *legality* of power, than that it is founded on the exercise of power.[1] "There is nothing," saith Swift, "hath perplexed me more than this doctrine of precedents; if a job is to be done," (for instance a provision to be

[1] *Vide* Penn: Farmer's 11th Letter. I recommend an attentive perusal of that Letter to my countrymen; it abounds with judicious observations, pertinent to the present subject, and expressed with the utmost elegance, perspicacity and strength.

made for officers) "and upon searching records, you find it hath been done before, there will not want a lawyer (an Antillon) to justify the legality of it, by producing his precedents, without ever considering the motives and circumstances that first introduced them, the necessity, or turbulence, or iniquity of the times, the *corruption of ministers*, or the arbitrary disposition of the prince then reigning."

Answer 12. "It is not probable the fees of some officers will in time exceed the Governor's income." Such an event is most probable. The Governor's fees as Chancellor, fall far short of the register's fees for recording the proceedings of the court, copies of bills &c. The register pays his deputy 40 or 50 £ a year, and pockets fees to the amount of 50,000 pounds of tobacco, discharged in money at 12 £ 6 per hundred pounds. Except the marriage licenses, all the other branches of the Governor's revenue will probably decrease, or continue in their present state. The Secretary's and Commissary's fees must increase with the increase of business, the trouble and expence do not increase in proportion. The Secretary has no trouble; the expence of this office is a mere trifle compared to his profits.

Having, at length waded through the argumentative part of my adversary's last paper, I am now come to the passages more immediately addressed to myself; for, Antillon still insists that I have assistants and confederates; silly as my productions are, he will not allow me the demerit of being single in my folly. Formerly I was accused of confidence, and self-conceit, now I am represented as begging from others, the little sense contained in my last piece. Antillon can reconcile contradictions, and expound knotty points of law, just as they may suit him.

"*Veniet de plebe togatâ.*
Qui juris modos, et legum aenigmata solvat."[1]

You see, sir, I take every opportunity of complimenting your abilities, somewhat at the expence of your integrity, I confess, but not of truth. The observation, that, an unlimited confidence in a bad minister will be assuredly abused—"*besides the merit of being true*," has this further merit; the *application of it to Antillon was just.* He denies in the most direct terms the pernicious influence ascribed to him. The most notorious criminals seldomest plead guilty; the assertion of *one*, who has long forfeited all title to veracity, cannot be credited. I repeat the questions put to you in my last paper. Was the Proclamation thought of by the whole Council at the same instant? Who first advised that measure? Did you not privately instigate some member of the board to open the scene of action while you lay lurking behind the curtain, ready to promote mischief, though unwilling to be thought the *first mover?*

Matters of a public concern are the objects of public disquisition. When the real advisers of a measure, from the secrecy of the transaction, are unknown, we must look to the *ostensible minister;* if the *known* character of the man should perfectly correspond with the *imputed* conduct, an assurance of the truth of the accusation instantly arises in the mind, far superior to the evidence grounded solely on his denial of the fact, and his most positive asseverations of innocence, or *confederated guilt.* "Many members of the Council have already avowed the part they took in the measure." And pray what part did they take? That is the very thing we all want to know. If they acted only a secondary part, if mislead

[1] Juvenal, viii., 50.

by your artful misrepresentations and sophistical reasons, they coincided with your opinion ; not the least degree of blame can be imputed to them. "They have expressed their resentment at the indignity of the imputation "—What imputation ? that they were imposed on by your artifices ; are they the first, will they be the last, whom you have deceived ? If any gentleman of the Council has taken offence at what I have said, it must be owing, either to misapprehension, or to *your crafty suggestions*. I meant not to offend ; it would grieve me

"To make one *honest man* my foe."

You still carp at the maxim, "*The king can do no wrong*," or rather at the application of it to the Governor ; the public, and you more than any one, can see the propriety of the application ; the Governor, perhaps, when too late, may be sensible of it also, and wish that he had not placed a confidence which he will hereafter discover has been abused, and may possibly give him many hours uneasiness. "*The citizen is a wretch*" (says Antillon), "*haunted by envy and malice.*" Antillon has been already called upon for his proofs ; the truth of the accusation rests entirely on his *ipse dixit*, which is at least presumptive evidence, that the accusation is false. Why, Antillon, am I suspected of bearing you malice ? Have you injured me ? Your suspicion implies a consciousness of guilt. What should excite my envy ? The splendour of your family, your riches, or your talents ? I envy you none of these ; even your talents upon which you value yourself most, and for which only you are valued by others, are so tarnished by your meannesses, that they always suggest to my mind the idea of a jewel buried in a dunghill.

As we agree in the essential point, that the Revolution

was both just and necessary, it is needless to say more on the collateral question, whether the abdication followed or preceded that measure ; the dispute at best is almost as insignificant as that about the words *abdicated* and *deserted*, which disgraced the House of Lords. That the national religion was in danger under James the 2nd from his bigotry and despotic temper, the dispensing power assumed by him and every other part of his conduct clearly evince. The nation had a *right* to *resist*, and so secure its civil and religious liberties. I am as averse to having a religion crammed down people's throats as a proclamation. These are my political principles, in which I glory ; principles not hastily taken up to serve a turn, but what I have always avowed since I became capable of reflection. I have not the least dislike to the Church of England, though I am not within her pale, nor indeed to any other church ; knaves, and bigots of all sects and denominations, I hate, and I despise.

> "For modes of faith let zealous bigots fight,
> His can't be wrong, whose life is in the right."

"Papists are distrusted by the laws, and laid under disabilities." They cannot, I know, (ignorant as I am) enjoy any place of profit, or trust, while they continue papists ; but do these disabilities extend so far as to preclude them from thinking and writing on matters merely of a political nature ? Antillon would make a most excellent inquisitor ; he has some striking specimens of an arbitrary temper, the first requisite.

He will not allow me freedom of thought or speech. The resolves of a former Assembly against certain religionists have been compared to the resolves against the Proclamation. I again repeat, the unprejudiced will

discern a wide difference between those resolves and the spirit which occasioned these; it would be no difficult task to show the disparity, but I choose not to meddle with a subject, the discussion of which may rekindle extinguished animosities. The contemptible comment on the expression—"*We remember and we forgive,*" scarcely deserves animadversion. "This," says Antillon, "is rather too much in the imperial style." The Citizen did not deliver his sentiment only but likewise the sentiment of others. We Catholics, who think we were hardly treated on occasion, *we* still remember the treatment though our resentment hath entirely subsided. It is not in the least surprizing that a man incapable of forming an exalted sentiment, should not readily comprehend the force and beauty of one. My exposition of the document of Minucius, as applied by you, is warranted by the whole tenor and purport of your publications. To what purpose was the threat thrown out of enforcing the penal statutes by proclamation? Why am I told that my conduct is very inconsistent with the situation of one, who "owes even the *toleration* he enjoys to the favour of government?" If by instilling prejudices into the Governor, and by every mean and wicked artifice you can rouse the popular resentment against certain religionists, and thus bring on a persecution of them, it will then be known whether the toleration I enjoy, be due to the favour of government or not. That you have talents admirably well adapted to the works of darkness, malice to attempt the blackest and meanness to stoop to the basest, is too true. The following lines convey an imperfect idea of your character:

> "Him there they found,
> Squat like a toad, close at the ear of Eve;

> Assaying by his devilish art, to reach
> The organs of her fancy, and with them
> Forge illusions, as he lists."
>
> MILTON.

Impudence carried to a certain degree, excites indignation—pushed beyond it becomes ridiculous. The Citizen's scandalous misrepresentation of Petyt is again insisted on. "*The Citizen referred to the Jus Parliamentarium*, he *knew the book was in the hands of few.*" If in your hands, it was sufficient; he knew you exceedingly well inclined to expose his misrepresentations, even upon the catch, and ready to lay hold of mere mistakes and inaccuracies, and when acknowledged, still to harp upon them. The crude notions of British polity, which Antillon in a former paper imputed to the Citizen, were quoted as the notions of Montesquieu, enlarged upon, and explained by the writer of a pamphlet on the privileges of the Lower House of Assembly in Jamaica: he was apprized thereof in my last paper, and he calls this exculpation a *tiny evasion.* The notions, whether crude or not, were not the Citizen's: but I presume to assert, that so far from being *crude*, they are judicious, and discover a perfect knowledge of our constitution. "Hume's history is a studied apology for the Stuarts', particularly of Charles the first." Has the historian suppressed any material facts? If not but has given an artificial colouring to some, softened others, and suggested plausible motives for the conduct of Charles, all this serves to confirm the observation, that an account may in *the main* be true, and not *entirely impartial;* the principal facts may be related, yet the suppression of some attendant circumstance will greatly alter their character and complexion.

I asserted that the constitution was not so well improved, and so well settled in Charles' time as at present. In

answer to this, Antillon remarks, that the constitution was clearly settled in the very point infringed, by the levy of ship money. To this I reply, that the Petition of Right was only a confirmation of former statutes against the same unconstitutional power, which had been assumed by most preceeding kings in direct violation of those statutes. To the imputation "*That you have always fathered your mischievous tricks on others*," you reply—"roundly asserted, but what proof have you?" Sufficient to support the charge—the mask of hypocrisy, which you have worn so long, is now falling off; the peoples eyes are at length opened; they know the real author of their grievances; and *his efforts* to regain lost popularity will be ineffectual; once distrusted he will ever remain so. A particular detail of all your *mean and dirty tricks* would swell this paper (already too long) to the size of a volume. I may on some future occasion entertain the public with Antillon's cheats.

"*Flebit, et insignis tota cantabitur urbe.*"[1]

They would discredit even a Scapia, and therefore must not be blended with a question of this serious and general importance. You have said, "*You do not believe me to be a man of honor or veracity.*" It gives me singular satisfaction that you do not, for a man destitute of *one*, must be void of the *other*, and cannot be a judge of *either*. Your mode of expression, which in general is clear and precise, in this instance discovers a confusion of ideas to which you are not often liable; but you have stumbled on a subject of which you have not the least conception.

"*Verbaque provisam rem non invita sequentur.*"

[1] Hor., S., ii., 1, 46.

If once the mind with clear conceptions glow,
The willing words in just expressions flow."

"*Honour*, or *veracity*." Are they then distinct things? Do you imagine that they can exist separately? No, they are most intimately connected; who wants *veracity* wants *principle*, *honour*, of course, and resembles Antillon.

First Citizen.

APPENDIX B.

JOURNAL OF CHARLES CARROLL OF CARROLLTON, DURING HIS VISIT TO CANADA, IN 1776, AS ONE OF THE COMMISSIONERS FROM CONGRESS.

APRIL 2d, 1776. Left New York at 5 o'clock P.M.; sailed up North River, or Hudson's, that afternoon, about thirteen miles. About one o'clock in the night were awaked by the firing of cannon: heard three great guns distinctly from the *Asia;* soon saw a great fire, which we presumed to be a house on Bedloe's island, set on fire by a detachment of our troops. Intelligence had been received that the enemy were throwing up intrenchments on that island, and it had been determined by our generals to drive them off. Dr. Franklin went upon deck, and saw waving flashes of light appearing suddenly and disappearing, which he conjectured to be the fire of musquetry, although he could not hear the report.

3rd. A bad, rainy day; wind north-east; quite ahead. A.M., eleven o'clock, opposite to Colonel Phillips's (a tory); pretty situation near the river; garden sloping down to it, house has a pretty appearance; a church at a little distance on the south side, surrounded by cedar trees. The banks of the river, on the western side exceedingly steep and rocky; pine trees growing amidst

the rocks. On the eastern, or New York side, the banks are not near so steep, they decline pretty gradually to the water's edge. The river is straight hitherto. About five o'clock wind breezed up from the south ; got under way, and ran with a pretty easy gale as far as the highlands, forty miles from New York. The river here is greatly contracted, and the lands on each side very lofty. When we got into this strait the wind increased, and blew in violent flaws ; in doubling one of these steep craggy points we were in danger of running on the rocks ; endeavored to double the cape called St. Anthony's nose, but all our efforts proved ineffectual ; obliged to return some way back in the straits to seek shelter ; in doing this our mainsail was split to pieces by a sudden and most violent blast of wind off the mountains. Came to anchor ; blew a perfect storm all night and all day the fourth. Remained all day (the fourth) in Thunder Hill bay, about half a mile below Cape St. Anthony's nose, and a quarter of a mile from Thunder Hill. Our crew were employed all this day in repairing the mainsail. The country round about this bay has a wild and romantic appearance ; the hills are almost perpendicularly steep, and covered with rocks and trees of a small size. The hill called St. Anthony's nose is said to be full of sulphur. I make no doubt this place has experienced some violent convulsion from subterraneous fire : the steepness of the hills, their correspondence, the narrowness of the river, and its depth, all confirm me in this opinion.

5th. Wind at north-east, mainsail not yet repaired. Sailed about twelve o'clock from Thunder Hill bay ; just before we doubled Cape St. Anthony's nose, Mr. Chase and I landed to examine a beautiful fall of water. Mr. Chase, very apprehensive of the leg of mutton being

boiled too much, impatient to get on board; wind breezing up, we had near a mile to row to overtake the vessel. As soon as we doubled Cape St. Anthony's nose a beautiful prospect opened on us. The river, from this place to Constitution fort, built on Marbler's rock, forms a fine canal, surrounded with high hills of various shapes; one, in particular, resembles a sugar loaf, and is so called. About three miles from Cape St. Anthony's nose is another beautiful cascade called "the Buttermilk." This is formed by a rivulet which flows from a lake on the top of a neighboring mountain; this lake, we were told, abounds with trout and perch. Arrived about five o'clock at Constitution fort; Mr. Chase went with me on shore to visit the fort; it is built on a rock called Marbler's rock; the river at this place makes a sudden bend to the west; the battery (for it does not deserve the name of a fort, being quite open on the north-east side) has two flanks, one fronting the south, and the other the west;—on the south flank were planted thirteen six and one nine pounder; on the west flank, seven nine pounders and one six pounder, but there were no cannoneers in the fort, and only one hundred and two men fit to do duty;—they intend to erect another battery on an eminence called Gravel hill, which will command vessels, coming up the river as soon as they double Cape St. Anthony's nose. A little above this cape a battery is projected to annoy the enemy's vessels, to be called Fort Montgomery; they intend another battery lower down the river, and a little below Cape St. Anthony's nose. In the highlands are many convenient spots to construct batteries on; but in order to make them answer the intended purpose, weighty metal should be placed on these batteries, and skilful gunners should be engaged to serve the artillery. About nine o'clock at night, the tide mak-

ing, we weighed anchor, and came to again about two o'clock in the morning, the sixth instant. The river is remarkably deep all the way through the highlands, and the tide rapid. When we came to an anchor off Constitution fort we found the depth of water above thirty fathoms. These highlands present a number of romantic views, the steep hills overshadow the water, and in some places the rocks, should they be rolled down, would fall into the river several feet from the banks on which they stood. This river seems intended by nature to open a communication between Canada and the province of New York by water, and, by some great convulsion a passage has been opened to the waters of Hudson's River through the highlands. These are certainly a spur of the Endless mountains.

6th. Weighed anchor about seven o'clock in the morning: had a fine breeze; the country more cultivated above the highlands; passed several mills, all of them overshot; saw two frigates on the stocks at Pokeepsay, building for the service of the United Colonies; saw a great many lime-kilns in our run this morning, on both sides of the river, the banks of which begin to slope more gradually to the water's edge. We wrote to General Heath, from off Constitution fort, and sent the letter to the commanding officer of the fort, with orders to forward it by express immediately to the general at New York. The purport of the letter was to inform the general of the very defenceless condition of the fort, that measures might be immediately taken to put it in a better posture of defence. If Howe was a man of enterprise, and knew of the weak state of the fort, he might take it in it's present situation with sixty men, and without cannon. He might land his party a little below the fort on the east side, march over a marsh, and attack it on the back part. It was proposed

to erect a battery of some cannon to sweep this marsh ; but this, and also the battery above mentioned, on Gravel hill, have been strangely neglected, and nothing as yet has been done towards constructing either of these batteries, more than levelling the top of Gravel hill.

Six o'clock, P.M., came to anchor four miles from Albany ; had a most glorious run this day, and a most pleasant sail ; including our run in the night, we ran this day ninety-six miles—Constitution fort being one hundred miles from Albany, and sixty from New York. We passed several country houses pleasantly situated on the banks, or rather, eminences commanding the banks of the river ; the grounds we could discover from the vessel did not appear to be highly improved. We had a distant view of the Katskill mountains. These are said to be some of the highest in North America ; they had a pleasing appearance ; the weather being somewhat hazy, they appeared like bluish clouds at a great distance ; when we were nearest to them, they were distant about ten miles. Vast tracts of land on each side of Hudson's river are held by the proprietaries, or, as they are here styled, the *Patrones* of manors. One of the Ransalaers has a grant of twenty miles on each side of the river. Mr. Robert R. Livingston informed me that he held three hundred thousand acres. I am told there are but ten original patentees between Albany and the highlands. The descendants of the first proprietaries of these immense tracts still keep them in possession ; necessity has not as yet forced any of them to sell any part.

7th. Weighed anchor this morning about six o'clock. Wind fair : having passed over the overslaw, had a distinct view of Albany, distant about two miles :—landed at Albany at half past seven o'clock ; received at landing, by GENERAL SCHUYLER, who, understanding we were

coming up, came from his house, about a mile out of town, to receive us and invite us to dine with him ; he behaved with great civility ; lives in pretty style ; has two daughters (Betsy and Peggy), lively, agreable, black-eyed girls. Albany is situated partly on a level, and partly on the slope of a hill, or rising ground, on the west side of the river. Vessels drawing eight and nine feet of water may come to Albany, and five miles even beyond it, at this season of the year, when the waters are out. The fort is in a ruinous condition, and not a single gun mounted on it. There are more houses in this town than in Annapolis, and I believe it to be much more populous. The citizens chiefly speak Dutch, being mostly the descendants of Dutchmen ; but the English language and manners are getting ground apace.

9th. Left Albany early this morning, and travelled in a wagon in company with Mrs. Schuyler, her two daughters, and Generals Schuyler and Thomas. At six miles from Albany I quitted the wagon and got on horseback to accompany the generals to view the falls on the Mohawk's river, called the Cohooes. The perpendicular fall is seventy-four feet, and the breadth of the river at this place, as measured by General Schuyler, is one thousand feet. The fall is considerably above one hundred feet, taken from the first ripple or still water above the perpendicular fall. The river was swollen with the melting of the snows and rains, and rolled over the frightful precipice an impetuous torrent. The foam, the irregularities in the fall broken by projecting rocks, and the deafening noise, presented a sublime but terrifying spectacle. At fifty yards from the place the water dropped from the trees, as it does after a plentiful shower, they being as wet with the ascending vapor as they commonly are after a smart rain of some continuance. The bottoms

adjoining the river Hudson are fine lands, and appeared to be well cultivated ; most of them that we passed through were in wheat, which, though commonly overflowed in the spring, we were informed by our driver, suffered no hurt, but were rather improved by the inundation. We arrived in the evening, a little before sunset, at Saratoga, the seat of General Schuyler, distant from Albany thirty-two miles. We spent the whole day in the journey, occasioned by the badness of the roads, and the delay the wagons met with in crossing two ferries. The roads at this season of the year are generally bad, but now worse than ever, owing to the great number of wagons employed in carrying the baggage of the regiments marching into Canada, and supplies to the army in that country. General Schuyler informed me that an uninterrupted water-carriage between New York and Quebec might be perfected at fifty thousand pounds sterling expense, by means of locks, and a small canal cut from a branch that runs into Wood creek, and the head of a branch which falls into Hudson's river ; the distance is not more than three miles. The river Richelieu or Sorel, is navigable for batteaux from the lake Champlain into the St. Lawrence. The rapids, below St. John's, are not so considerable as to obstruct the navigation of such vessels.

The lands about Saratoga are very good, particularly the bottom lands. Hudson's river runs within a quarter of a mile of the house, and you have a pleasing view of it for two or three miles above and below. A stream called Fishkill, which rises out of Lake Saratoga, about six miles from the general's house, runs close by it, and turns several mills ; one, a grist mill, two saw mills, (one of them carrying fourteen saws,) and a hemp and flax mill. This mill is a new construction, and answers equally well in breaking hemp or flax. I requested the gen-

eral to get a model made for me by the person who built it. Descriptions of machines are seldom accurately made, and when done with exactness are seldom understood. I was informed by the general that it is customary for the great proprietaries of lands to lease them out for three lives, sometimes on fee-farm-rents, reserving by way of rent, a fourth, or, more commonly, a tenth of all the produce; but the proprietaries content themselves with a tenth of the wheat. On every transmutation of property from one tenant to another, a quarter part of what the land sells for is sometimes paid to the original proprietary, or lord of the manor. The general observed to me that this was much the most advantageous way of leasing lands;—that in the course of a few years, from the frequent transmutations of tenants, the alienation fines would exceed the purchase of the fee-simple, though sold at a high valuation. General Schuyler is a man of a good understanding improved by reflection and study; he is of a very active turn, and fond of husbandry, and when the present distractions are composed, if his infirm state of health will permit him, will make Saratoga a most beautiful and most valuable estate. He saws up great quantities of plank at his mills, which before this war, was disposed of in the neighborhood, but the greater part of it sent to Albany.

11th. Generals Thomas and Schuyler set off this morning for Lake George; the former to be in readiness to cross the lake on the first breaking up of the ice, the latter to forward the embarkation and transportation of military stores and supplies.

12th. It snowed all this morning until eleven o'clock; the snow above six inches deep on the ground: it was not off the neighboring hills when we left Saratoga.

16th. This morning we set off from Saratoga; I parted

with regret from the amiable family of General Schuyler; the ease and affability with which we were treated, and the lively behavior of the young ladies, made Saratoga a most pleasant *séjour*, the remembrance of which will long remain with me. We rode from Saratoga to McNeill's ferry, [distance two miles and a half,] crossed Hudson's river at this place, and rode on to one mile above Fort Miller, which is distant from McNeill's two miles. A Mr. Dover has a country-seat near Fort Miller; you see his house from the road. There is a very considerable fall in the river at Fort Miller. Just above it our baggage was put into another boat; it had been brought in a wagon from Saratoga to McNeill's, carried over the ferry in a wagon, and then put on board a boat, in which it was conveyed to the foot of Fort Miller falls; then carried over land a quarter of a mile and put into a second boat. At a mile from Fort Miller we got into a boat and went up the Hudson river to Fort Edward. Although this fort is but seven miles distant from the place where we took boat, we were above four hours rowing up. The current is exceedingly rapid, and the rapidity was increased by a freshet. In many places the current was so strong that the batteau men were obliged to set up with poles, and drag the boat by the painter. Although these fellows were active and expert at this business, it was with the greatest difficulty they could stem the current in particular places. The congress keeps in pay three companies of batteau men on Hudson's river, consisting each of thirty-three men with a captain;—the pay of the men is £4.10 per month. The lands bordering on Hudson's river, as you approach Fort Edward, become more sandy, and the principal wood that grows on them is pine. There are several saw mills both above and below Fort Miller.

The planks sawed at the mills above Fort Miller are made up into small rafts and left without guides to the current of the river; each one is marked, so that the raftmen that remain just below Fort Miller falls, watching for them coming down, may easily know their own rafts. When they come over the falls they go out in canoes and boats and tow their rafts ashore, and then take them to pieces and make them again into larger rafts. The smaller rafts are called *cribs*. The ruins only of Fort Edward remain; there is a good large inn, where we found quartered Colonel Sinclair's regiment. Mr. Allen, son of old Mr. Allen, is lieutenant-colonel; he received us very politely, and accommodated us with beds. The officers of this regiment are in general fine sized men, and seemed to be on a friendly footing;—the soldiers also are stout fellows.

17th. Having breakfasted with Colonel Allen, we set off from Fort Edward on our way to Fort George. We had not got a mile from the fort when a messenger from General Schuyler met us. He was sent with a letter by the general to inform us that Lake George was not open, and to desire us to remain at an inn kept by one Wing at seven miles distance from Fort Edward and as many from Fort George. The country between Wing's tavern and Fort Edward is very sandy and somewhat hilly. The principal wood is pine. At Fort Edward the river Hudson makes a sudden turn to the westward; it soon again resumes its former north course, for, at a small distance, we found it on our left and parallel with the road which we travelled, and which, from Fort Edward to Fort George, lies nearly north and south. At three miles, or thereabouts, from Fort Edward, is a remarkable fall in the river. We could see it from the road, but not so as to form any judgment of its height. We were informed

that it was upwards of thirty feet, and is called the Kingsbury falls. We could distinctly see the spray arising like a vapor or fog from the violence of the fall. The banks of the river, above and below these falls for a mile or two, are remarkably steep and high, and appear to be formed or faced, with a kind of stone very much resembling slate. The banks of the Mohawk's river at the Cohooes are faced with the same sort of stone;—it is said to be an indication of sea-coal. Mr. Wing's tavern is in the township of Queensbury, and Charlotte county; Hudson's river is not above a quarter of a mile from his house. There is a most beautiful fall in the river at this place. From still water, to the foot of the fall, I imagine the fall cannot be less than sixty feet, but the fall is not perpendicular; it may be about a hundred and twenty or a hundred and fifty feet long, and in this length, it is broken into three distinct falls, one of which may be twent-five feet nearly perpendicular. I saw Mr. Wing's patent,—the reserved quit-rent is two shillings and sixpence sterling per hundred acres; but he informs me it has never been yet collected.

18th. We set off from Wing's tavern about twelve o'clock this day, and reached Fort George about two o'clock; the distance is eight miles and a half;—you can not discover the lake until you come to the heights surrounding it,—the descent from which to the lake is nearly a mile long;—from these heights you have a beautiful view of the lake for fifteen miles down it. Its greatest breadth during these fifteen miles does not exceed a mile and a quarter, to judge by the eye, which however, is a very fallacious way of estimating distances. Several rocky islands appear in the lake, covered with a species of cedar called here *hemlock.* Fort George is in as ruinous a condition as Fort Edward, it is a

small bastion, faced with stone, and built on an eminence commanding the head of the lake. There are some barracks in it, in which the troops were quartered, or rather *one* barrack, which occupied almost the whole space between the walls. At a little distance from this fort, and to the westward of it, is the spot where the Baron Dieskau was defeated by Sir William Johnson. About a quarter of a mile further to the westward the small remains of Fort William Henry are to be seen across a little rivulet which forms a swamp, and is the morass mentioned by Sir William Johnson in his account of the action with Dieskau. Fort William Henry was taken last war by Montcalm and destroyed;—the garrison, consisting of four hundred men, and sixteen hundred others that were intrenched without the fort, capitulated;—a considerable part of these men were murdered by the Indians, on their march to Fort Edward, after they had delivered up their arms, according to the terms of capitulation. The bay in which Montcalm landed is seen from Fort George; he left a guard of five hundred men only to protect his boats and artillery, and marched round over the heights to come to the southward of Fort William Henry. When on these heights, he discovered the intrenched body without the fort, and seeing the great indiscretion he had been guilty of in leaving so small a force to guard his baggage and boats, he rashly marched back to secure them. Had our troops attacked Montcalm's five hundred men, they would probably have defeated them, taken his cannon and boats, and forced him to surrender with his whole army. There was nothing to impede the attack but want of enterprise and conduct in the commanding officer. The neighborhood of Fort George abounds with limestone, and so indeed does all the country sur-

rounding the lake, and all the islands in it. Their rocky coast and bottom contribute, no doubt, to the clearness of the lake water. Never did I see water more transparent, and to its transparency, no doubt, must be ascribed the excellency of the fish in this lake, which much exceed the fish in Lake Champlain. Lake George abounds with perch, trout, rock, and eels.

19th. We embarked at Fort George this evening, about one o'clock, in company with General Schuyler, and landed in Montcalm's bay about four miles from Fort George. After drinking tea on shore, and arranging matters in our boats, we again embarked, and went about three or four miles further, then landed, (the sun being set), and kindled fires on shore. The longest of the boats, made for the transportation of the troops over lakes George and Champlain, are thirty-six feet in length and eight feet wide; they draw about a foot water when loaded, and carry between thirty and forty men, and are rowed by the soldiers. They have a mast fixed in them to which a square sail, or a blanket is fastened, but these sails are of no use unless with the wind abaft or nearly so. After we left Montcalm bay we were delayed considerably in getting through the ice; but, with the help of tentpoles, we opened ourselves a passage through it into free water. The boats fitted up to carry us across had awnings over them, under which we made up our beds, and my fellow travellers slept very comfortably; but this was not my case, for I was indisposed the whole night with a violent sickness at my stomach and vomiting, occasioned by an indigestion. We left the place where we passed the night very early on the 20th.

20th. We had gone some miles before I rose; soon after I got out of bed we found ourselves entangled in the ice. We attempted, but in vain, to break through it in

one place, but were obliged to desist and force our passage through another, which we effected without much difficulty. At eight o'clock we landed to breakfast. After breakfast the general looked to his small boat; being desirous to reach the landing at the north end of Lake George, we set off together; but the general's boat and the other boat, with part of the luggage, soon got before us a considerable way. After separating, we luckily fell in with the boat bringing the Montreal and Canada mail, by which we were informed that the west shore of the lake at a place called Sabatay point, was much encumbered with ice, but that there was a free passage on the east side; accordingly, we kept along the east shore, and found it free from ice, by which means we got before the general and the other boat; for the general, who was foremost, had been delayed, above an hour in breaking through the ice, and, in one place, was obliged to haul his boat over a piece or neck of land thirty feet broad. Dr. Franklin found in the Canada mail, which he opened, a letter for General Schuyler. When we had weathered Sabatay point, we stood over for the western shore of the lake, and a mile or two below the point we were overtaken by the general, from whom we learned the cause of his delay. Mr. Chase and myself went on board the general's boat, and reached the landing place at the south end of Lake George near two hours before the other boats. Lake George lies nearly north and south, or rather, as I think, somewhat to the eastward of a due north course. Its shores are remarkably steep, high, and rocky (particularly the east shore), and are covered with pine and cedar, or what is here termed hemlock; the country is wild, and appears utterly incapable of cultivation; it is a fine deer country, and likely to remain so, for I think it never will be inhabited. I speak of the shores, and I am told the

inland country resembles these. The lake, in its greatest width, does not exceed, I think, two miles; the widest part is nearest the north end, immediately before you enter the last narrows, which are not, in their greatest width, above half a mile. There are two places where the lake is considerably contracted, one about the middle of it, the other, as I have said, at the north end; this last gradually contracts itself in breadth to the size of an inconsiderable river, and suddenly, in depth, to that of a very shallow one. The landing-place of Lake George is a few yards to the southward of the first fall or ripple in this river, through which the waters of Lake George drain into Lake Champlain. We passed through this ripple, and though our boat did not draw above seven or eight inches, her bottom raked the rocks; the water ran through this passage about as swift as it does through your tail race. From the landing-place to Ticonderoga is three miles and a half. The boats, in coming through Lake George, pass through the passage just described and unload at a quarter of a mile below the usual landing-place. Their contents are then put into wagons, and carried over to Ticonderoga. General Schuyler has erected a machine for raising the boats when emptied, and then letting them gently down on a carriage constructed for the purpose, on which they are drawn over land to Ticonderoga, on Lake Champlain, to carry the troops over the last mentioned lake, and down the Sorel into the river St. Lawrence. These carriages consist of four wheels, united by a long sapling, at the extremities of which the wheels are placed; over the axletrees is fixed a piece of wood, on which each end of the boat is supported and made fast by a rope secured round a bolt at the undermost part, and in the centre of the axletree. This bolt is made of iron, and passes through the afore-

said pieces of wood and the axeltree. These carriages are drawn by six oxen, and this morning (21st instant) I saw three or four boats carried over upon them. Lake George, from the south end of it to the landing place at the north extremity, is thirty-six miles long. Its average width does not, I think, exceed a mile, and this breadth is interspersed and broken by innumerable little rocky islands formed of limestone; the shores of which are commonly so steep that you may step from the rocks into ten or twelve feet water. The season was not sufficiently advanced to admit of catching fish, a circumstance we had reason to regret, as they are so highly praised by the connoisseurs in good eating, and as one of our company is so excellent a judge in this science. There are no considerable rivers that empty themselves into Lake George. We saw some brooks or rivulets, which, I presume, after the melting of the snows, are almost dry. The lake must be fed, principally, with springs, the melting of snows, and the torrents that must pour into it, from its high and steep shores, after rains. As there is no considerable river that flows into it, so is the vent of its waters into Lake Champlain very inconsiderable. In summer you may step, dry-footed, from rock to rock, in the place which I have called the first ripple, and which I said we passed, coming out of Lake George. The water suddenly shallows from a great depth to nine or ten feet or less. This change is immediately discoverable by the great change in the color of the water. The lake water is of a dark bluish cast, and the water of the river of a whitish color, owing not only to the difference of the depth, but the difference of the bottoms and shores, which, adjoining the river, are of white clay.

21st. I took a walk this evening to the saw-mill which is built on the principal fall of the river flowing from

Lake George into Lake Champlain. At the foot of this fall, which is about thirteen feet high, the river is navigable for batteaux into Lake Champlain. From the saw-mill to the place where the batteaux are put on carriages to be carried over land, the distance is one mile and a half. I saw them unload a boat from the carriage, and launch it at the same time, into the river; this was performed by thirty-five or forty men. To day they carried over this portage fifty batteaux. I saw the forty-eighth put on the carriage. A little to the north-westward of the saw-mill, on the west side of the river, I visited the spot where Lord Howe was killed. At a small expense a continued navigation for batteaux might be made between the Lakes George and Champlain, by means of a few locks. General Schuyler informed me that locks, sufficient and adequate to the above purpose, might be constructed for fifteen hundred pounds sterling. There are but four or five falls in this river, the greatest of which is not above fourteen or fifteen feet. But the general informs me a much more advantageous water carriage may be opened through Wood creek, which falls into Lake Champlain at Skeensborough, twenty-eight miles south of Ticonderoga. The general proposes to have this creek accurately surveyed, the heights ascertained, and estimate made of the expense of erecting locks on Wood creek, and the most convenient branch which heads near it and falls into Hudson's river. If this water communication between Lake Champlain and the province of New York should be perfected, there is little danger of the enemy's gaining the mastery of Lake Champlain, or of their ever having it in their power to invade these colonies from Canada with any prospect of success, besides the security which will be obtained for the colonies in time of war by making this navigation.

Trade, during peace, will be greatly benefited by it, as there will then be a continued water communication between New York and Canada, without the inconvenience and expense attending the portages over land.

22nd. I this morning took a ride with General Schuyler across the portage, or from the landing place at the bottom of Lake George, to Ticonderoga. The landing place is properly on the river which runs out of Lake George into Lake Champlain, and may be a mile and a half from the place where the former may be said to terminate, *i. e.*, where the lake is contracted into a river, as a current and shallow water. This river, computing its length from the aforesaid spot to the foot of the falls at the saw-mills, and its windings, which are inconsiderable, is not more than four or five miles long. From the foot of the saw-mill falls there is still water into Lake Champlain. It is at the foot of these falls that the batteaux, brought over land, are launched into the water, and the artillery and the apparatus belonging to it are embarked in them; the stores, such as provisions, ball, powder, &c., are embarked from Ticonderoga. At sixty or seventy yards below the saw-mill there is a bridge built over the river:—this bridge was built by the king during the last war;—the road from the landing place to Ticonderoga passes over it, and you then have the river on the right; when you have passed the bridge you immediately ascend a pretty high hill, and keep ascending till you reach the famous lines made by the French in the last war, which Abercrombie was so infatuated as to attack with musquetry only;—his cannon was lying at the bridge, about a mile or something better from these lines. The event of the day is too well known to be mentioned; we lost [killed and wounded] near one thousand, six hundred men; had the cannon been brought up, the

French would not have waited to be attacked ;—it was morally impossible to succeed against these lines with small arms only, particularly in the manner they were attacked ;—our army passing before them, and receiving a fire from the whole extent ;— whereas, had it marched lower down, or to the north-west of these lines, it would have flanked them :—they were constructed of large trunks of trees, felled on each other, with earth thrown up against them. On the side next the French troops, they had, besides felling trees, lopped and sharpened their branches, and turned them towards the enemy ; the trunks of the trees remain to this day piled up as described, but are fast going to decay. As soon as you enter these lines you have a full view of Lake Champlain and Ticonderoga fort, distant about a quarter of a mile. The land from thence gradually declines to the spot on which the fort is built. Lake Champlain empties itself opposite the fort, and runs south twenty-eight miles to Skeensborough. Crown Point is fifteen miles down the lake from Ticonderoga. The lake is no where broad in sight of the last mentioned place, but the prospect from it is very pleasing ; its shores are not as steep as those of Lake George. They rise gradually from the water, and are covered more thickly with woods, which grow in good soils, or at least in soils much better than can be seen on Lake George. There is but one settlement on the latter, at Sabatay point ; I understood there were about sixty acres of good land at that point. Ticonderoga fort is in a ruinous condition ; it was once a tolerable fortification. The ramparts are faced with stone. I saw a few pieces of cannon mounted on one bastion, more for show, I apprehend, than service. In the present state of affairs this fort is of no other use than as an *entrepôt* or magazine for stores, as from this

place all supplies for our army in Canada are shipped to go down Lake Champlain. I saw four vessels, viz.: three schooners and one sloop ; these are to be armed, to keep the mastery of the lake in case we should lose St. John's and be driven out of Canada ;—in the meantime they will be employed in carrying supplies to our troops in that country. Of these three schooners, two were taken from the enemy on the surrender of St. John's, one of them is called the *Royal Savage*, and is pierced for twelve guns ; she had, when taken, twelve brass pieces—I think four and six pounders ; these were sent to Boston. She is really a fine vessel, and built on purpose for fighting ; however, some repairs are wanted ; a new mainmast must be put in, her old one being shattered with one of our cannon balls. When these vessels are completely rigged, armed and manned, we may defy the enemy on Lake Champlain for this summer and fall at least, even should we unfortunately be driven out of Canada. When our small army last summer, or rather fall, [in number about one thousand seven hundred,] came to *Isle aux Noix*, this vessel was almost ready to put to sea, she wanted only as much to be done to her as could easily have been finished in three days, had the enemy exerted themselves. Had she ventured out our expedition to Canada must have failed, and probably our whole army must have surrendered, for she was greatly an overmatch for all the naval strength we then had on the lake. Had Preston, who commanded at St. John's ventured out with his garrison, consisting of six hundred men, and attacked our people at their first landing, he would, in all probability, have defeated them, as they were a mere undisciplined rabble, made up chiefly of the offings and outcasts of New York.

23rd. We continued this day at the landing place, our

boats not being yet ready and fitted to carry us through Lake Champlain. General Schuyler and the troops were busily engaged in carting over land, to the saw-mill, the batteaux, cannon, artillery stores, provisions, &c., there to be embarked on the navigable waters of Lake Champlain, and transported over that Lake to St. John's.

24th. We this day left the landing place at Lake George and took boat at the sawmill. From the saw-mill to Ticonderoga, the distance, by water, is about a mile; the water is shallow, but sufficiently deep for batteau navigation. A little below the bridge before mentioned, the French, during the last war, drove pickets into the river, to prevent our boats getting round from the saw-mill to Ticonderoga with the artillery; some of the pickets still remain, for both our boats struck on them. Ticonderoga fort is beautifully situated, but, as I said before, it is in a ruinous condition;—neither is the place, in my opinion, judicially chosen for the construction of a fort; a fort constructed at the saw-mill would much better secure the passage or pass into the province of New York by way of Lake George. Having waited at Ticonderoga an hour or two, to take in provisions for the crews of both boats, consisting entirely of soldiers, we embarked at eleven o'clock, and reached Crown Point a little after three, with the help of our oars only. Crown Point is distant from Ticonderoga only fifteen miles. The lake, all the way, from one part to another, is narrow, scarce exceeding a mile on an average. Crown Point is situated on a neck or isthmus of land, on the west side of the lake; it is in ruins; it was once a considerable fortress, and the English must have expended a large sum in constructing the fort and erecting the barracks, which are also in ruins. A great part of the ditch is cut out of the solid limestone rock. This

ditch was made by blowing the rocks, as the holes bored for the gunpowder are plainly to be seen in the fragments. By some accident the fort took fire, the flames communicated to the powder magazine, containing at that time ninety-six barrels. The shock was so great as to throw down the barracks—at least the upper stories. The explosion was distinctly heard ten miles off, and the earth shook at that distance as if there had been an earthquake. This intelligence I received from one Faris, who lives ten miles down the lake, and at whose house we lay this night. The woodwork of the barracks is entirely consumed by fire, but the stonework of the first stories might be easily repaired, and one of these barracks might be converted into a fine manufactory. The erecting of these barracks and the fort must have cost the government not less, I dare say, than one hundred thousand pounds sterling. The lake is narrow opposite the fort, and makes a bend, by which the vessels passing on the lake were much exposed to the artillery of the fort; and this advantageous situation first induced the French, and then the English, to erect a fort here. The French fort was inconsiderable, and close to the water; the English fort is a much more extensive fortification and farther from the lake, but so as to command it.

25th. We set off from Faris's at five o'clock in the morning. If Faris's information may be relied on, his land and the neighboring lands are exceedingly fine; —he told us he had reaped thirty bushels of wheat from the acre; the soil appears to be good; but, to judge of it from its appearance, I should not think it so fertile. Three miles north of Faris's the lake begins to contract itself, and this contraction continues for six miles, and is called the narrows. At Faris's the lake is about two miles wide. We breakfasted in a small cove

at a little distance to the southward of the Split rock. The Split rock is nine miles from Faris's house. At the Split rock the lake grows immediately wider as you go down it; its width, in this place, cannot be much short of seven miles. When we had got four or five miles from the rock, the wind headed us, and blew a fresh gale, which occasioned a considerable swell on the lake, the wind being northeast, and having a reach of twenty miles. We were constrained to put in at one McCaully's where we dined on cold provisions. The wind abating about four o'clock, we put off again and rowed seven miles down the lake to a point of land a mile or two to the southward of four islands, called the Four Brothers; these islands lie nearly in the middle of the lake which is very wide in this place, and continues so far as you can see down it. Mr. Chase and I slept this night on shore under a tent made of bushes.

26th. We set off this morning at four o'clock from the last mentioned point, which I called "Commissioners' point." Wind fair; a pretty breeze. At five o'clock reached Schuyler's island; it contains eight hundred acres and belongs to Montreson, distant seven miles from the Four Brothers. Schuyler's island lies near the western shore. The lake continues wide; at ten o'clock got to Cumberland head, fourteen miles from Schuyler's island. Cumberland head is the south point of Cumberland bay. The bay forms a deep recess on the western side of the lake; its length, from Schuyler's island, at the point of land opposite to it, to Cumberland head-land is fourteen miles, and its depth not less than nine or ten miles. The wind luckily favored us until we reached Cumberland head; it then ceased; it grew cloudy and soon began to rain, and the wind shifted to the northeast. We breakfasted at Cumberland head on tea and

good biscuit, our usual breakfast, having provided ourselves with the necessary furniture for such a breakfast. As soon as it cleared up we rowed across a bay, about four miles wide, to *Point aux Roches*, so called from the rocks of which it is formed. Indeed it is one entire stone wall, fifteen feet high, but gradually inclining to the north-east. At that extremity it is little above the water. Having made a short stay at this place to refresh our men, we rowed round the point, hugged the western shore, and got into a cove which forms a very safe harbor. But the ground being low and swampy, and no cedar or hemlock trees, of the branches of which our men formed their tents at night, we thought proper to cross over to *Isle la Motte*, bearing from us about north-east, and distant three miles. The island is nine miles long and one broad. The south-west side of it is high land, and the water is deep close in shore, which is rocky and steep. We lay under this shore all night in a critical situation, for had the wind blown hard in the night, from the west, our boats would probably have been stove against the rocks. We passed the night on board the boats, under the awning which had been fitted up for us. This awning could effectually secure us from the wind and rain, and there was space enough under it to make up four beds. The beds we were provident enough to take with us from Philadelphia. We found them not only convenient and comfortable, but necessary ; for, without this precaution, persons travelling from the colonies into Canada at this season of the year, or indeed at any other, will find themselves obliged either to sit up all night, or to lie on the bare ground or planks. Several of the islands in Lake Champlain have different claimants, as patents have been granted by the French government and the government of New York.

According to the present division, most of them, indeed all, except *Isle aux Noix*, are in the colony of New York.

27th. A fine morning. We left our nation's station at four o'clock, and rowed ten miles to *Point aux Fer*, so called from some iron mines at no great distance from it; the land here, and all the adjacent country, is very flat and low. Colonel Christie has built a house at this point, which is intended for a tavern; the place is judiciously chosen. A small current begins here, and the raftsmen are not obliged to row; after they bring their rafts to *Point aux Fer*, the current will carry them in a day to St. John's, which is distant from this point thirty measured miles. Windmill point is three miles below *Point aux Fer;* and, a mile or two below the former, runs the line which divides the province of Quebec from New York. At Windmill point the lake begins to contract itself to the size of a river, but of a large and deep one. Opposite to this point the width can not be much short of two miles; six miles below Windmill point you meet with a small island called *Isle aux Têtes:* from a number of heads that were stuck upon poles by the Indians after a great battle that was fought between them on this island or near it. At this island the current is not only perceptible, but strong. We went close by the island and in shallow water, which gave us a better opportunity of observing the swiftness of the current. A mile or two below this island, we breakfasted at a tavern kept by one, Stodd. At *Isle aux Têtes*, the river *Richelieu*, or St. John's, or Sorel (for it goes by all these names), may be properly said to begin. It is in this place above a mile wide, deep, and the current considerable;—its banks are almost level with the water,—indeed, the water appears to be rather above the banks; the country is one continued swamp, overflowed by the river at this season; as you approach St. John's

the current grows stronger. *Isle aux Noix* is half way between St. John's and *Point aux Fer*, and consequently fifteen miles from each ; we passed close by it : it is very level and low, covered at the north end with hazel bushes ; but the land is higher than the banks of the river. We saw the intrenchments thrown up by the French during the last war, and the remains of the pickets driven into the river, quite across to the island, to prevent the English boats from getting down to St. John's. These fortifications induced Gen'l Amherst to penetrate into Canada by Oswego lake and the St. Lawrence, rather than run the hazard of being stopped at *Isle aux Noix*. Indeed I believe he would have found it a difficult matter to force his way through this pass, which appears to me of great consequence in the present contest, should the forces of the United Colonies be obliged to evacuate Canada ; for if we occupy and fortify this island, drive pickets into the river, and build row galleys, and place them behind the pickets, or between the little islets formed by the several smaller islands, almost contiguous to *Isle aux Noix*, the enemy will not be able to penetrate into the colonies from Canada by the way of Lake Champlain. It is certain that Amherst, rather than expose himself to the disgrace of being foiled at this post, chose to make a roundabout march of several hundred leagues, and encounter the rapids of the St. Lawrence, by which he lost some of his boats and several hundred men. Having passed the *Isle aux Noix*, the wind sprang up in our favor ;—assisted by the wind and current, we reached St. John's at three o'clock. Before I speak of this fortress, it may not be improper to make some remarks on the navigation of Lake Champlain, the adjacent country, and its appearance. The navigation appears to be very secure, as there are many inlets, coves, and harbors, in which such vessels as will

be used on the lake may at all times find shelter; the water is deep, at least wherever we touched, close in with the land. There are several islands in the lake, the most considerable of which we saw; the principal is *Grand isle*,—it deserves the appellation, being, as we were informed, twenty-seven miles long, and three or four miles wide. *Isle la Motte* is the next largest and *Isle de Belle Cour* ranks after that. *Isle la Motte* we touched at; the others we could plainly distinguish. We saw several of the islands on the eastern shore of the lake, some of which appear as large as Poplar's island; but having no person on board our boats acquainted with the lake, we could not learn their names. The lake, on an average, may be six miles broad; in some places it is above fifteen miles wide, particularly about Cumberland bay and Schuyler's island; but in others it is not three miles, and in the narrows not above a mile and a half, to judge by the eye. As you go down the lake, the mountains which hem it in on the east and west extend themselves wider, and leave a greater extent of fine level land between them and the lake on each shore. Some of these mountains are remarkably high. In many places, on or near their tops, the snow still remains. They form several picturesque views, and contribute much, in my opinion, to the beauty of the lake. The snow not dissolving, in their latitude, at the end of April, is a proof of their height:—the distance at which some of these mountains are visible is a still stronger proof. Several of them may be distinctly seen from Montreal, which can not be at a less distance from the most remote than seventy or eighty miles, and, I am inclined to think, considerably further. If America should succeed, and establish liberty throughout this part of the continent, I have not the least doubt that the lands bordering on Lake Champlain will be very valua-

ble in a short time, and that great trade will be carried on over Lake Champlain, between Canada and New York. An easy water communication may be opened, at no great expense, (if General Schuyler be not mistaken) between the cities of New York, Montreal, and Quebec, and several other places in Canada. *Richelieu*, or *Sorel river* from *Isle aux Têtes* to St. John's, would be esteemed a large river even in Maryland. The navigation of it between those places is good, for the current is not so strong as not to be stemmed with oars, or a wind. At St. John's the current is very rapid, and continues so, sometimes more, sometimes less, to Chamblay,—distant twelve miles from St. John's. Opposite St. John's, I think the river is half a mile wide.

The fortifications of St. John's were not injured by the siege,—they consist of earth ramparts, enclosed by a ditch filled with water; palisadoes, closely joined together, are fastened at the base of the ramparts, and confined by the weight of them projecting half way over the ditch, to prevent an escalade. There are, properly speaking, two forts, built around some houses, which were converted into magazines and barracks; the communication between the two is secured by a strong enclosure of large stakes driven deep into the ground, and as close as they can stand together. A ditch runs along this fence. The houses within the forts suffered much from our batteries which surrounded the forts, but the cannon was not heavy enough to make any impression on the works. Want of ammunition and provisions, and the inclemency of the season, obliged the garrison to surrender; for the soldiers were constrained to hide themselves in the cellars, which are bomb-proof, or lie behind the mounds of earth thrown up within the forts, exposed to the severity of the cold and rains, or run the risk of

having their brains beaten out in the houses by our shot, or by a fragment of the walls and timbers, and bursting of the bombs. As you go down the river from *Point au Fer* to St. John's, you have a distant and beautiful prospect of the mountains on either side of the lake. After passing *Isle aux Noix*, you have a fine view of the mountain of Chamblay, on the top of which is a lake stored with excellent trout and perch. Having despatched a messenger to Montreal for carriages for ourselves and baggage; we crossed the river to go to a tavern on the east side of the river, about a mile from the fort. The house belongs to Colonel Hazen, and has greatly suffered by the neighborhood of the troops. There is scarcely a whole pane of glass in the house, the window shutters and doors are destroyed, and the hinges stolen; in short, it appears a perfect wreck. This tavern is kept by a French woman, married to one Donaho, now a prisoner in Pennsylvania.

28th. We remained at Colonel Hazen's house. Several batteaux with troops arrived this day and yesterday evening from Ticonderoga, and most of them fell down the river this day to Chamblay. The land appears to be very fertile, and well adapted to pasture; the grass began to grow fast, although the frost was not then out of the ground, the surface only being thawed.

29th. Left Colonel Hazen's house; crossed over to St. John's, where we found our *calèches* ready to receive us. After an hour's stay spent in getting our baggage into the carts, and securing the remainder,—which, for want of carts, we were obliged to leave behind us—we set off from St. John's for *La Prairie*, distant eighteen miles. I never travelled through worse roads, or in worse carriages. The country is one continued plain from St John's to *La Prairie*, and two-thirds of the way

uncultivated, though deserving the highest cultivation. About five or six miles from *La Prairie* you meet with houses and ploughed lands, interspersed with meadows, which extend as far as you can see ;—all this tract of land is capable of being turned into fine meadow, and when the country becomes more populous, and enjoys a good government, I doubt not it will be all drained and made into excellent meadow or pasturage. Without draining, it will be impossible to cultivate it in any way. You have no view of the St. Lawrence, or of Montreal, until you come within three or four miles of *La Prairie.* At *La Prairie* the view of the town and the river, and the island of Montreal, together with the houses on the eastern side of the St. Lawrence, form a beautiful prospect. As far as the view extends down the river, you discern houses on either side of it, which are not divided from each other by more than four acres, and commonly by not more than two. From *La Prairie* you go slanting down the river to Montreal ; this passage is computed six miles, though the river, in a direct line across from the eastern shore to the town, is not more than three miles. Ships of three hundred tons can come up to Montreal, but they cannot get up above the town, or even abreast of it. The river where we crossed is filled with rocks and shoals, which occasion a very rapid current in several places. We were received by GENERAL ARNOLD, on our landing, in the most polite and friendly manner ; conducted to head-quarters, where a genteel company of ladies and gentlemen had assembled to welcome our arrival. As we went from the landing place to the general's house, the cannon of the citadel fired in compliment to us as the commissioners of congress. We supped at that general's, and after supper were conducted, by the general and other gentlemen, to our lodgings,—the house of Mr. Thomas

Walker,—the best built, and perhaps the best furnished in this town.

May 11th. Dr. Franklin left Montreal to-day to go to St. John's, and from thence to congress. The doctor's declining state of health, and the bad prospect of our affairs in Canada, made him take this resolution.

12th. We set off from Montreal to go to *La Prairie.* Mr. John Carroll went to join Dr. Franklin at St. John's, from whence they sailed the 13th.

13th. I went to St. John's to examine into the state of that garrison, and of the batteaux. There I met with General Thompson and Colonel Sinclair, with part of Thompson's brigade. That evening I went with them down the Sorel to Chamblay. Major Wood and myself remained in the boat when we got to St. Therèse, where the rapids begin and continue, with some interruptions, to Chamblay. Flat bottomed boats may go down these rapids in the spring of the year, when the water is high; —even a large *gondola* passed down them this spring; but it would be very difficult, if not impossible, to bring a *gondola* up against the stream. I much question whether the batteaux could be brought up; certain it is that the labor of towing them up, or setting them up the current with setting poles, would be greater, and take much more time, than carting them over the carrying place from Chamblay to within three miles of St. Therèse. All our batteaux which shoot the rapids and go down the Sorel to Chamblay and that are brought up again to St. John's, are carted over the carrying place on frames constructed for the purpose. It was proposed by some to bring a *gondola*, built at Chamblay, over land three miles into the Sorel, three miles below St. Therèse; others were of opinion it could be more easily towed up over the rapids. *Chamblay fort* is a large

square stone building, with square towers at each angle, a place intended only as a protection against the savages. I saw the holes made by a six pounder, when it was taken by Major Brown. Major Stafford might have held out against the force which besieged him at least for some days, in which time he would probably have been relieved by Carleton. But, by Carleton's subsequent behaviour, when he made an attempt to go to the relief of St. John's, I much question whether he would have taken more effectual measures to rescue Stafford. The taking of Chamblay occasioned the taking of St. John's; against the latter we should not have succeeded without the six tons of gunpowder taken in the former.

14th. I returned to Montreal by *La Prairie;* the country between Chamblay and *La Prairie* is extremely fine and level, abounding with most excellent meadow-ground as you approach the St. Lawrence, with rich arable land round about Chamblay. The country lying between the St. Lawrence and the Sorel is the best part of Canada, and produces the most and best wheat. In the year 1771 four hundred and seventy-one thousand bushels of wheat were exported out of Canada, of which two-thirds, it is computed, were made in the Sorel district.

21st. This day Mr. Chase set off with me for the mouth of the Sorel; we embarked from Montreal in one of our batteaux, and went in it as far as the point of land on the north shore of the St. Lawrence, opposite to the northern extremity of the Island of Montreal; here, the wind being against us, we took post and travelled on the north side of the St. Lawrence as low down as *La Nore*, where we got into a canoe, and were paddled down and across the St. Lawrence to our camp at the mouth of the Sorel;—it was a perfect calm, the distance is computed at nine miles. The country on each side the St. Lawrence is level,

rich, and thickly seated ; indeed, so thickly seated, that the houses form almost one continued row. In going from *La Nore* to the mouth of the Sorel, we passed by Brown's battery (as is is called), although it never had a cannon mounted on it. To this battery without cannon, and to a single gondola, ten or twelve vessels, under the command of Colonel Prescott, surrendered. Major Brown, when the vessels came near to his battery, sent an officer on board requesting Prescott to send another on shore to view his works. It is difficult to determine which was greatest, the impudence of Brown in demanding a surrender, or the cowardice of the officer who, going back to Prescott, represented the difficulty of passing the battery so great and hazardous, that Prescott and all his officers chose to capitulate. Brown requested the officer who went on shore to wait a little until he saw the thirty-two pounders, which were within a half a mile, coming from Chamblay ;—says he, "If you should chance to escape this battery, which is my small battery, I have a grand battery at the mouth of the Sorel, which will infallibly sink all your vessels." His grand battery was as badly provided with cannon as his little battery, for not a single gun was mounted on either. This Prescott treated our prisoners with great insolence and brutality. His behaviour justifies the old observation, that cowards are generally cruel. We found the discipline of our camp very remiss, and everything in confusion ;—General Thomas had but lately resigned the command to Thompson, by whose activity things were soon put on a better footing.

22d. We left our camp and travelled by land along the eastern bank of the Sorel. At five or six miles from the mouth of the Sorel the country grows rich, and continues so all the way to Chamblay. Near the mouth of

the river it is very sandy. This part of the country is very populous, the villages are large and neat, and joined together by a continued range of single houses, chiefly farmers' houses. These are the rich men in Canada: the *seignieurs* are in general poor. They were constrained by the ordinances of the King of France to lease their lands forever, reserving two dollars for every ninety acres, and some other trifling perquisites, as tolls for grinding wheat; the tenants being obliged to have their wheat ground at their *seignieurs'* mills. It is conjectured that the farmers in Canada can not be possessed of less than a million sterling, in specie; they hoard up their money to portion their children; they neither let it out at interest, nor expend it in the purchase of lands. Before we left the camp we ordered a detachment up to Montreal, under the command of Colonel De Haas, consisting of near four hundred men, to reinforce General Arnold, and, in conjunction, to drive off a party of the eighth regiment, who, with three hundred and fifty savages, and some Canadians, had taken our post at the Cedars, through the cowardice of Major Butterfield, and had advanced, on the 25th instant, within fifteen miles of Montreal.

23rd. We got early this morning to Chamblay, where we found all things in much confusion, extreme disorder and negligence, our credit sunk, and no money to retrieve it with. We were obliged to pay three silver dollars for the carriage of three barrels of gunpowder from Little Chamblay river to Longueil, the officer who commanded the guard not having a single shilling.

24th. Colonel De Haas's detachment got into Montreal this evening; the day before, we also arrived there, having crossed the St. Lawrence in a canoe from Longueil.

25th. In the evening of this day Colonel De Haas's detachment marched out of Montreal to join General Arnold at La Chine ; they were detained from want of many necessaries, which we were obliged to procure for them, General Wooster being without money, or pretending to be so. The enemy, hearing from our enemies in Montreal, of this reinforcement, had retreated precipitately to Fort St. Anne's, at the southern extremity of the Island of Montreal, and from thence had crossed over to *Quinze Chiens*, on the north side of the St. Lawrence.

29th. We left Montreal this day at three o'clock, to go to Chamblay, to be present at a council of war of the generals and field-officers for concerting the operations of the campaign.

30th. The council of war was held this day, and determined to maintain possession of the country between the St. Lawrence and Sorel, if possible ;—in the meantime to dispose matters so as to make an orderly retreat out of Canada.

31st. Set off from Chamblay for St. John's ;—all things there in confusion :—slept at Mrs. Donaho's.

June 1st. Crossed over this morning to St. John's, where General Sullivan with fourteen hundred men, had arrived in the night of the 31st past ; saw them all under arms. It began to rain at nine o'clock, and continued raining very hard until late in the evening ;—slept at Donaho's.

2nd. Crossed over again to the camp ; took leave of General Sullivan, and sailed from St. John's at six this morning, with a fair wind ;—got to *Point au Fer* at one o'clock ;—got to Cumberland head about seven o'clock, P.M. ; set off from thence about nine, and rowed all night. We divided our boat's crew into two watches.

3rd. Breakfasted at Willsborough ; rowed on and

received despatches by Major Hickes; got to Crown Point half-past six o'clock, P.M. Set off at eight, rowed all night, and arrived at one o'clock in the night at Ticonderoga, where we found General Schuyler.

4th. Set off this morning at five with General Schuyler, for Skeenesborough, and got there by two o'clock. The lake as you approach Skeenesborough, grows narrower and shallower; indeed, within five or six miles of Skeenesborough, it has all the appearance of a river. We hauled our batteau over the carrying place at Skeenesborough into Wood creek. This carrying place is not above three hundred feet across; a lock may be made for two hundred pounds at Skeenesborough, by which means a continued navigation would be effected for batteaux from one Chesshire's into Lake Champlain. Major Skeene has built a saw-mill, gristmill, and a forge at the entrance of Wood creek into Lake Champlain. Set off from Skeenesborough at four o'clock, rowed up Wood creek ten miles, to one Boyle's, here we lay all night on board our boat.

5th. Set off at three in the morning and continued rowing up the creek to one Chesshire's. This man lives near Fort Ann, built by Governor Nicholson in 1709 The distance from Skeenesborough to Chesshire's is twenty-two miles,—by land, fourteen only; from this it appears that Wood creek has many windings, in fact, I never saw a more serpentine river. The navigation is somewhat obstructed by trees drifted and piled across the creek; however, we met with little difficulty but in one place, where we were obliged to quit our boat, and carry it through a narrow gut, which was soon performed by our crew. Two hundred men would clear this creek and remove every obstruction in six days' time. This measure has been recommended by the commissioners

to congress, and congress has complied with the recommendation, and orders will soon be given to General Schulyer to clear it, and render the navigation easy.

I set off with General Schuyler, on foot, from Chesshire's, at one o'clock ; walked seven miles, and then met horses coming from Jones's to us. Jones's house is distant nine miles from Chesshire's. We dined at Jones's, and rode, after dinner, to Fort Edward ;—the distance is computed four miles ;—Mr. Chase joined us this evening. He took the lower road and was obliged to walk part of the way.

6th. Parted with General Schuyler this morning ; he returned to Fort George on Lake George. We rode to Saratoga, where we got by seven o'clock, but did not find the amiable family at home. We were constrained to remain here all this day, waiting the arrival of our servants and baggage.

7th. Our servants and baggage being come up, we left Saratoga this morning at nine ; took boat and went down Hudson's river through all the rapids, to Albany. The distance is computed thirty-six miles. We arrived at Albany half an hour past five. At six o'clock we set off for New York in a sloop : which we luckily found ready to sail ; got that evening and night twenty-four miles from Albany.

8th. Found ourselves, this morning, twenty-four miles from Albany ;—at seven in the morning wind breezed up, had a fine gale, and got below the highlands ; —a very great run.

9th. Arrived at New York at one o'clock, P.M. ; waited on General Washington at Motier's ;—saw Generals Gates and Putnam, and my old acquaintance and friend, Mr. Moylan. About six o'clock in the evening got into General Washington's barge, in company with

Lord Stirling, and was rowed round by Staten Island and the Kilns, within two miles of Elizabeth-town, where we got by ten at night.

10th. Set off from Elizabeth-town half-past five. Got to Bristol at eight o'clock, P.M. :—at nine, embarked in our boats, and were rowed down the Delaware to Philadelphia, where we arrived at two o'clock in the night.

END OF VOLUME I.

DATE DUE

DEC 19 1975

6/24/02 ILL

DOMINICAN COLLEGE LIBRARY
3 3645 00017702 5

E 302.6 .C3 R8 v.1

Rowland, Kate Mason, d.
1916.

The life of Charles Carroll
of Carrollton, 1737-1832

San Rafael, California